

7-21-2011

Blankenship v. Washington Trust Bank Clerk's Record v. 2 Dckt. 38426

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LAW CLERK

TERESA R. BLANKENSHIP,

Petitioner/Respondent,

vs.

WASHINGTON TRUST BANK as trustee,

Respondent/Respondent

WILLIAM MICHAEL BOWMAN and ERIC BOWMAN,

Intervenors/Appellants.

Appealed from the District Court of the First Judicial
District of the State of Idaho in and for Bonner County

HONORABLE JOHN T. MITCHELL

District Judge

J.T. DIEHL

Attorney for Intervenors/Appellants

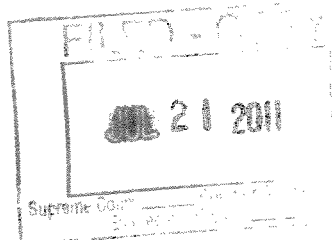
TODD M. REED

Attorney for Petitioner/Respondent

PETER J. SMITH, IV

Attorneys for Respondent/Respondent

VOLUME 1



38426

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA A. BLAKENSHIP,)	
	)	SUPREME COURT NO 38426-2011
Petitioner/Respondent,)	
	)	CLERK'S RECORD ON APPEAL
vs.)	
)	
WASHINGTON TRUST BANK,)	
)	
Respondent/Respondent)	
_____)	
)	
WILLIAM MICHAEL BOWMAN)	
And ERIC BOWMAN)	
)	
Intervenors/Appellant)	
_____)	

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the First Judicial District of the State of Idaho, in and for
the County of Bonner.

HONORABLE JOHN T. MITCHELL
District Judge

J.T. DIEHL
ATTORNEY AT LAW
106 W. SUPERIOR ST.
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250 NORTHWEST BLVD., STE 102
COEUR d'ALENE, ID 83883814

Clerk's Certificate

TABLE OF CONTENTS

VOLUME 1

ROA'S	1-22
Petition for Removal of Trustee and Preliminary Injunction filed April 3, 2007	23-26
Disqualification of Judge filed April 10, 2007	27-28
Order of Reassignment filed April 24, 2007	29
Application for Default filed July 23, 2007	30-31
Demand for Notice filed July 30, 2007	32-33
Motion for Transfer of Trust Pending Final Litigation and Notice of Hearing filed October 11, 2007	34-35
Scheduling Order, Notice of Trial Setting & Initial Pretrial Order filed December 11, 2007.....	36-44
Motion to Dismiss filed January 14, 2008	45-46
Motion for Protective Order filed January 14, 2008	47-48
Memorandum in Support of Motion for Protective Order filed January 14, 2008.....	49-63
Motion for Sanctions Pursuant to Idaho Rule of Civil Procedure 37(d) and Notice of Hearing filed January 24, 2008	64-71
Objection to Petitioner's Motion for Sanctions filed February 5, 2008.....	72-80
Order Regarding Hearing on Motions for Sanctions filed March 3, 2008	81-83
Objection to Motion to Dismiss filed April 16, 2008	84-86
Order Denying Motion to Dismiss filed April 22, 2008.....	87-88
Answer by Respondent Washington Trust Bank filed May 12, 2008.....	89-94

Motion to Amend Petition and Continue Trial and Notice of Hearing filed June 10, 2008.....	95-97
Washington Trust Bank's Response to Petitioner's Motion to Amend Petition and Motion to Continue Trial filed June 3, 2008	98-100
Stipulation to Allow Amended Petition and Continue Trial filed June 10, 2008.....	101
Order Allowing Amended Petition and Continuing Trial filed June 11, 2008 (Rec'd in Bonner Co. 06/25/2008).....	102-103
Motion to Revoke Leave to File Amended Petition filed August 15, 2008...	104-107
Substitution of Counsel filed August 18, 2008.....	108-109
Affidavit of William D. Hyslop filed August 15, 2008	110-115
Affidavit of Peter J. Smith filed August 15, 2008.....	116-136
Motion to Refer Case to Mediation filed August 20, 2008	137-144
Motion to Compel Discovery filed August 26, 2008.....	145-146
Affidavit of Peter J. Smith in Support of Motion to Compel filed August 26, 2008	147-157
Amended Petition for Removal of Trustee, Preliminary Injunction and Complaint for Damages filed August 26, 2008.....	158-162
Motion for Leave to Resign filed August 26, 2008	163-165
Notice of Withdrawal of Motion to Compel filed September 3, 2008	166-167
Order Granting Motion to Refer Case to Mediation filed September 10, 2008.....	168-173
Order Granting Respondent's Motion for Leave to Resign filed September 10, 2008.....	174-177
Objection to Notice of Filing Verified Account of Former Trustee under Seal filed September 25, 2008.....	178-179

Motion to Appoint Trustee and Transfer of Assets in Trust and Notice of Hearing
filed September 25, 2008..... 180-182

Motion to Compel Discovery filed October 8, 2008 183-190

Motion to Continue Trial filed October 8, 2008 191-194

Withdrawal of Motion to Continue Trial filed October 21, 2008 195-196

Motion for Leave to Intervene filed October 21, 2008 197-198

Affidavit in Support of Motion to Intervene filed October 23, 2008..... 199-201

VOLUME 2

Order Appointing Beverly Kee, CPA as Trustee filed October 23, 2008..... 202-205

Order Settling Final Account of Former Trustee filed October 27, 2008..... 206-208

Order Allowing Intervention filed November 12, 2008 209-210

Order to Vacate, Continue and Reset Trial filed November 12, 2008 211-212

Motion for Summary Judgment filed January 29, 2009..... 213-215

Memorandum in Support of Respondent's Motion for Summary Judgment
filed January 29, 2009..... 216-248

Notice of Hearing filed January 29, 2009 249-251

Stipulation to Transfer Trustee filed January 29, 2009 252-254

Stipulation to Transfer Trustee filed January 29, 2009
(With note from Judge) 255-257

Motion to Waive Time and Notice of Hearing filed January 29, 2009 258-260

Objection to Motion for Summary Judgment and Notice of Hearing
filed January 29, 2009..... 261-263

Objection to Motion for Summary Judgment filed February 2, 2009 264-265

Response to Petitioner's Objection to Motion for Summary Judgment filed February 4, 2009	266-271
Memorandum of Points and Authorities in Opposition to Respondent's Motion for Summary Judgment filed February 17, 2009	272-284
No Objection to Stipulation to Transfer Trustee filed February 17, 2009	285-286
Memorandum in Opposition to Motion for Summary Judgment filed February 17, 2009	287-292
Affidavit of J.T. Diehl filed February 17, 2009	293-295
Complaint of Intervenor filed February 17, 2009	296-300
Respondent Washington Trust Bank's Objection and Motion to Strike Petitioner's Untimely Opposition to Summary Judgment filed February 19, 2009	301-310
Objection to Lack of Service filed February 19, 2009	311-312
Affidavit of Mischelle R. Fulghum Regarding Non-Service of Stipulation to Transfer Trustee filed February 19, 2009	313-319
Motion to Shorten Time filed February 24, 2009	320-321
Motion for Leave to Intervene filed February 24, 2009	322-324
Affidavit of Eric Bowman in Support of Motion to Intervene filed February 24, 2009	325-327
Notice of Hearing filed February 24, 2009.....	328-329
Respondent's Motion to Strike filed February 25, 2009.....	330-349
Respondent's Motion to Shorten Time filed February 25, 2009	350-352
Affidavit of Mischelle R. Fulghum RE: Summary Judgment filed February 25, 2009	353-361
Respondent's Motion to Strike filed March 2, 2009	362-381
Respondent's Exhibit List filed March 2, 2009.....	382-397

Intervenor's Pre-Trial Compliance (Intervenor's Exhibit List) filed March 3, 2009	398-401
--	---------

VOLUME 3

Notice of Pretrial Compliance RE: Witnesses and Exhibits filed March 3, 2009	402-407
---	---------

Supplemental Notice of Pretrial Compliance RE: Witnesses and Exhibits filed March 4, 2009	408-411
--	---------

Motion for Certification of Partial Summary Judgment Pursuant to IRCP Rule 54(b) and Motion to Continue Trial filed March 5, 2009	412-414
--	---------

Order Allowing Intervention of Eric Bowman filed March 5, 2009	415-416
--	---------

Motion to Change Venue of Trial filed March 6, 2009	417-419
---	---------

Motion to Amend Pretrial Order filed December 12, 2007 to Allow Depositions of Intervenors filed March 6, 2009.....	420-422
--	---------

Order Denying Petitioner's Objection to Respondent's Objection filed March 9, 2009	423-424
---	---------

Order Regarding Respondent's Motion for Summary Judgment filed March 9, 2009	425-429
---	---------

Order Overruling Washington Trust Bank's Objections and Denying Its Motion to Strike filed March 9, 2009	430-431
---	---------

Objection to Amending Pretrial Order filed March 9, 2009.....	432-434
---	---------

Objection to Motion for Change of Venue filed March 9, 2009.....	435-436
--	---------

Stipulated Motion to Shorten Time and to Hold Hearing by Telephone Conference and Notice of Hearing, March 11, 2009 at 11:00 a.m. filed March 9, 2009	437-439
---	---------

Stipulation on Submission of Trial Briefs March 9, 2009	440-443
---	---------

Objection to Motion for Change of Venue filed March 9, 2009.....	444-445
--	---------

Objection to Entry of a Final Judgment under IRCP 54(b)	
---	--

filed March 11, 2009	446-450
Order Regarding Rulings from March 11, 2009 Hearing filed March 12, 2009	451-453
First Amended Complaint of Intervenor filed March 12, 2009	454-458
Motion to Strike Respondent's Defenses; or Motion to Strike Expert Testimony of Sue Cook or Motion to Continue Trial and Notice of Hearing filed March 16, 2009	459-462
Respondent's Trial Brief filed March 16, 2009	463-482
Motion for Order Dismissing Intervenor William Michael Bowman with Prejudice filed March 24, 2009	483-485
Motion for Order Directing Trustee to Make Loan Payment filed March 25, 2009	486-488
Objection to Transfer of Trustee Without Payment of Outstanding Liabilities filed March 25, 2009	489-492
Motion for Certification of Partial Summary Judgment Pursuant to IRCP Rule 54(b) filed April 1, 2009	493-494
Motion to Dismiss First Amended Complaint of Intervenor(s) filed April 10, 2009	495-496
Answer to First Amended Complaint of Intervenor(s) filed April 10, 2009	497-502
Motion for Enforcement of Agreement and Notice of Hearing filed April 21, 2009	503-505
Objection to Motion to Dismiss Amended Complaint filed April 24, 2009	506-508
Objection to Motion to Dismiss Intervenor, William Michael Bowman filed April 24, 2009	509-511
Respondent Memorandum in Opposition to Intervenor's Motion for Certification of Partial Summary Judgment Pursuant to IRCP 54(b) filed April 28, 2009	512-516

Reply Brief in Support of Motion to Dismiss Intervenor William Michael Bowman filed April 30, 2009	517-522
Order for Dismissal filed May 5, 2009	523-524
Order to Transfer Trustee filed May 5, 2009	525-526
Memorandum and Affidavit of Attorney Fees filed May 7, 2009.....	527-531
Order Denying Respondent's Motion to Dismiss Intervenor William Michael Bowman filed May 8, 2009.....	532-533
Respondent's Objection to Petitioner's Memorandum and Affidavit of Attorney Fees filed May 18, 2009.....	534-539
Motion for Reconsideration filed May 18, 2009.....	540-541
Reply Brief in Support of Motion to Dismiss First Amended Complaint of Intervenor filed June 18, 2009	542-548
Judgment in RE: Attorney Fees on Motion to Reconsider filed July 17, 2009	549-550
Stipulation to Transfer Trustee filed January 20, 2010	551-553
Order to Transfer Trustee filed January 22, 2010	554-555
Memorandum Decision and Order Granting Washington Trust Bank's Motion to Dismiss filed September 28, 2010.....	556-563
Amended Memorandum Decision and Order Granting Washington Trust Bank's Motion to Dismiss filed November 11, 2010	564-575
Final Judgment Dismissing All Claims of Teresa A. Blankenship, William Michael Bowman and Eric Bowman filed November 10, 2010	576-579
Notice of Appeal filed December 21, 2010	580-584
Request for Additional Transcript and Record filed January 4, 2011	585-589
Notice of Transcript Lodged filed January 21, 2011	590

District Court Clerk’s Motion for Extension of Time
filed February 28, 2011 591-592

Order Granting Motion for Extension of Time to File and Serve Clerk’s Record
filed March 7, 2011593

INDEX

Affidavit in Support of Motion to Intervene filed October 23, 2008.....	199-201
Affidavit of Eric Bowman in Support of Motion to Intervene filed February 24, 2009	325-327
Affidavit of J.T. Diehl filed February 17, 2009	293-295
Affidavit of Mischelle R. Fulghum RE: Summary Judgment filed February 25, 2009	353-361
Affidavit of Mischelle R. Fulghum Regarding Non-Service of Stipulation to Transfer Trustee filed February 19, 2009	313-319
Affidavit of Peter J. Smith filed August 15, 2008.....	116-136
Affidavit of Peter J. Smith in Support of Motion to Compel filed August 26, 2008	147-157
Affidavit of William D. Hyslop filed August 15, 2008	110-115
Amended Memorandum Decision and Order Granting Washington Trust Bank's Motion to Dismiss filed November 11, 2010	564-575
Amended Petition for Removal of Trustee, Preliminary Injunction and Complaint for Damages filed August 26, 2008.....	158-162
Answer by Respondent Washington Trust Bank filed May 12, 2008	89-94
Answer to First Amended Complaint of Intervenor(s) filed April 10, 2009	497-502
Application for Default filed July 23, 2007	30-31
Complaint of Intervenor filed February 17, 2009	296-300
Demand for Notice filed July 30, 2007	32-33
Disqualification of Judge filed April 10, 2007	27-28
District Court Clerk's Motion for Extension of Time filed February 28, 2011	591-592
filed July 17, 2009	549-550
Final Judgment Dismissing All Claims of Teresa A. Blankenship, William Michael Bowman and Eric Bowman filed November 10, 2010	576-579
First Amended Complaint of Intervenor(s) filed March 12, 2009	454-458
Intervenor's Pre-Trial Compliance (Intervenor's Exhibit List) filed March 3, 2009	398-401

Judgment in RE: Attorney Fees on Motion to Reconsider filed July 17, 2009	549-550
Memorandum and Affidavit of Attorney Fees filed May 7, 2009.....	527-531
Memorandum Decision and Order Granting Washington Trust Bank's Motion to Dismiss filed September 28, 2010.....	556-563
Memorandum in Opposition to Motion for Summary Judgment filed February 17, 2009	287-292
Memorandum in Support of Motion for Protective Order filed January 14, 2008.....	49-63
Memorandum in Support of Respondent's Motion for Summary Judgment filed January 29, 2009.....	216-248
Memorandum of Points and Authorities in Opposition to Respondent's Motion for Summary Judgment filed February 17, 2009	272-284
Motion for Certification of Partial Summary Judgment Pursuant to IRCP Rule 54(b) and Motion to Continue Trial filed March 5, 2009	412-414
Motion for Certification of Partial Summary Judgment Pursuant to IRCP Rule 54(b) filed April 1, 2009	493-494
Motion for Enforcement of Agreement and Notice of Hearing filed April 21, 2009	503-505
Motion for Leave to Intervene filed February 24, 2009	322-324
Motion for Leave to Intervene filed October 21, 2008	197-198
Motion for Leave to Resign filed August 26, 2008	163-165
Motion for Order Directing Trustee to Make Loan Payment filed March 25, 2009	486-488
Motion for Order Dismissing Intervenor William Michael Bowman with Prejudice filed March 24, 2009	483-485
Motion for Protective Order filed January 14, 2008	47-48
Motion for Reconsideration filed May 18, 2009.....	540-541
Motion for Sanctions Pursuant to Idaho Rule of Civil Procedure 37(d) and Notice of Hearing filed January 24, 2008	64-71
Motion for Summary Judgment filed January 29, 2009.....	213-215
Motion for Transfer of Trust Pending Final Litigation and Notice of Hearing filed October 11, 2007	34-35
Motion to Amend Petition and Continue Trial and Notice of Hearing filed June 10, 2008.....	95-97

Motion to Amend Pretrial Order filed December 12, 2007 to Allow Depositions of Intervenor(s) filed March 6, 2009.....	420-422
Motion to Appoint Trustee and Transfer of Assets in Trust and Notice of Hearing filed September 25, 2008.....	180-182
Motion to Change Venue of Trial filed March 6, 2009	417-419
Motion to Compel Discovery filed August 26, 2008	145-146
Motion to Compel Discovery filed October 8, 2008	183-190
Motion to Continue Trial filed October 8, 2008	191-194
Motion to Dismiss filed January 14, 2008	45-46
Motion to Dismiss First Amended Complaint of Intervenor(s) filed April 10, 2009	495-496
Motion to Refer Case to Mediation filed August 20, 2008	137-144
Motion to Revoke Leave to File Amended Petition filed August 15, 2008...	104-107
Motion to Shorten Time filed February 24, 2009	320-321
Motion to Strike Respondent's Defenses; or Motion to Strike Expert Testimony of Sue Cook or Motion to Continue Trial and Notice of Hearing filed March 16, 2009	459-462
Motion to Waive Time and Notice of Hearing filed January 29, 2009	258-260
No Objection to Stipulation to Transfer Trustee filed February 17, 2009	285-286
Notice of Appeal filed December 21, 2010	580-584
Notice of Hearing filed February 24, 2009.....	328-329
Notice of Hearing filed January 29, 2009.....	249-251
Notice of Pretrial Compliance RE: Witnesses and Exhibits filed March 3, 2009	402-407
Notice of Transcript Lodged filed January 21, 2011	590
Notice of Withdrawal of Motion to Compel filed September 3, 2008	166-167
Objection to Amending Pretrial Order filed March 9, 2009.....	432-434
Objection to Entry of a Final Judgment under 54(b) filed March 11, 2009	446-450
Objection to Lack of Service filed February 19, 2009	311-312
Objection to Motion for Change of Venue filed March 9, 2009	444-445
Objection to Motion for Change of Venue filed March 9, 2009.....	435-436

Objection to Motion for Summary Judgment and Notice of Hearing filed January 29, 2009.....	261-263
Objection to Motion for Summary Judgment filed February 2, 2009	264-265
Objection to Motion to Dismiss Amended Complaint filed April 24, 2009	506-508
Objection to Motion to Dismiss filed April 16, 2008	84-86
Objection to Motion to Dismiss Intervenor, William Michael Bowman filed April 24, 2009	509-511
Objection to Notice of Filing Verified Account of Former Trustee under Seal filed September 25, 2008.....	178-179
Objection to Petitioner's Motion for Sanctions filed February 5, 2008.....	72-80
Objection to Transfer of Trustee Without Payment of Outstanding Liabilities filed March 25, 2009	489-492
Order Allowing Amended Petition and Continuing Trial filed June 11, 2008 (Rec'd in Bonner Co. 06/25/2008).....	102-103
Order Allowing Intervention filed November 12, 2008	209-210
Order Allowing Intervention of Eric Bowman filed March 5, 2009	415-416
Order Appointing Beverly Kee, CPA as Trustee filed October 23, 2008.....	202-205
Order Denying Motion to Dismiss filed April 22, 2008.....	87-88
Order Denying Petitioner's Objection to Respondent's Objection filed March 9, 2009	423-424
Order Denying Respondent's Motion to Dismiss Intervenor William Michael Bowman filed May 8, 2009.....	532-533
Order for Dismissal filed May 5, 2009	523-524
Order Granting Motion for Extension of Time to File and Serve Clerk's Record filed March 7, 2011	593
Order Granting Motion to Refer Case to Mediation filed September 10, 2008.....	168-173
Order Granting Respondent's Motion for Leave to Resign filed September 10, 2008.....	174-177
Order of Reassignment filed April 24, 2007	29
Order Overruling Washington Trust Bank's Objections and Denying Its Motion to Strike filed March 9, 2009	430-431
Order Regarding Hearing on Motions for Sanctions filed March 3, 2008	81-83

Order Regarding Respondent's Motion for Summary Judgment filed March 9, 2009	425-429
Order Regarding Rulings from March 11, 2009 Hearing filed March 12, 2009	451-453
Order Settling Final Account of Former Trustee filed October 27, 2008.....	206-208
Order to Transfer Trustee filed January 22, 2010	554-555
Order to Transfer Trustee filed May 5, 2009	525-526
Order to Vacate, Continue and Reset Trial filed November 12, 2008	211-212
Petition for Removal of Trustee and Preliminary Injunction filed April 3, 2007	23-26
Reply Brief in Support of Motion to Dismiss First Amended Complaint of Intervenors filed June 18, 2009	542-548
Reply Brief in Support of Motion to Dismiss Intervenor William Michael Bowman filed April 30, 2009	517-522
Request for Additional Transcript and Record filed January 4, 2011	585-589
Respondent Memorandum in Opposition to Intervenors' Motion for Certification of Partial Summary Judgment Pursuant to IRCP 54(b) filed April 28, 2009	512-516
Respondent Washington Trust Bank's Objection and Motion to Strike Petitioner's Untimely Opposition to Summary Judgment filed February 19, 2009	301-310
Respondent's Exhibit List filed March 2, 2009	382-397
Respondent's Motion to Shorten Time filed February 25, 2009	350-352
Respondent's Motion to Strike filed February 25, 2009.....	330-349
Respondent's Motion to Strike filed March 2, 2009	362-381
Respondent's Objection to Petitioner's Memorandum and Affidavit of Attorney fees filed May 18, 2009.....	534-539
Respondent's Trial Brief filed March 16, 2009	463-482
Response to Petitioner's Objection to Motion for Summary Judgment filed February 4, 2009	266-271
ROA'S	1-22
Scheduling Order, Notice of Trial Setting & Initial Pretrial Order filed December 11, 2007.....	36-44
Stipulated Motion to Shorten Time and to Hold Hearing by Telephone Conference and Notice of Hearing, March 11, 2009 at 11:00 a.m. filed March 9, 2009	437-439

Stipulation on Submission of Trial Briefs March 9, 2009	440-443
Stipulation to Allow Amended Petition and Continue Trial filed June 10, 2008.....	101
Stipulation to Transfer Trustee filed January 20, 2010	551-553
Stipulation to Transfer Trustee filed January 29, 2009 (With note from Judge)	255-257
Stipulation to Transfer Trustee filed January 29, 2009	252-254
Substitution of Counsel filed August 18, 2008.....	108-109
Supplemental Notice of Pretrial Compliance RE: Witnesses and Exhibits filed March 4, 2009	408-411
Washington Trust Bank's Response to Petitioner's Motion to Amend Petition and Motion to Continue Trial filed June 3, 2008	98-100
Withdrawal of Motion to Continue Trial filed October 21, 2008	195-196

Teresa R. Blankenship vs. Washington Trust Bank

Date	Code	User		Judge
4/3/2007	NEWC	HENDRICKSO	New Case Filed	Steve Verby
		HENDRICKSO	Filing: G3 - All Other Actions Or Petitions, Not Demanding \$ Amounts Paid by: Todd Reed Receipt number: 0370725 Dated: 4/3/2007 Amount: \$88.00 (Check)	Steve Verby
	APER	JACKSON	Plaintiff: Blankenship, Teresa R. Appearance Todd M. Reed	Steve Verby
	PETN	JACKSON	Petition for Removal of Trustee and Preliminary Injunction	Steve Verby
	AFFD	JACKSON	Affidavit of Teresa R. Blankenship	Steve Verby
4/10/2007	DISA	MORELAND	Disqualification Of Judge - Automatic	Steve Verby
	CHJG	MORELAND	Change Assigned Judge	District Court Clerks
4/24/2007	ORDR	MORELAND	Order of Reassignment	District Court Clerks
	CHJG	MORELAND	Change Assigned Judge	John T. Mitchell
7/17/2007	AFSV	MORELAND	Affidavit Of Service - Petn for Removal of Trustee & Preliminary Injunction & affd of Teresa R. Blankenship	John T. Mitchell
7/23/2007	APPL	MORELAND	Application for Default	John T. Mitchell
7/30/2007	DENO	MORELAND	Demand For Notice	John T. Mitchell
	APER	MORELAND	Defendant: Washington Trust Bank Appearance Peter J. Smith IV	John T. Mitchell
		MORELAND	Filing: 17A - Civil Answer Or Appear. All Other Actions No Prior Appearance Paid by: Lukins & Annis Receipt number: 0377626 Dated: 7/31/2007 Amount: \$58.00 (Check) For: [NONE]	John T. Mitchell
10/11/2007	MOTN	MORELAND	Motion for Transfer of Trust Pending Final Litigation & Notice of Hearing	John T. Mitchell
10/12/2007	HRSC	MORELAND	Hearing Scheduled (Motion 12/06/2007 03:00 PM) for transfer of Trust pending Final Litigation	John T. Mitchell
11/26/2007	FIOC	MORELAND	File Out Of County	John T. Mitchell
	NOTC	MORELAND	Notice of Scheduling Conference Pursuant to I.R.C.P. 16(b) & 16(c)	John T. Mitchell
11/28/2007	HRSC	MORELAND	Hearing Scheduled (Status Conference 12/06/2007 03:00 PM)	John T. Mitchell
12/6/2007	HRHD	MORELAND	Hearing result for Status Conference held on 12/06/2007 03:00 PM: Hearing Held	John T. Mitchell
	HRVC	MORELAND	Hearing result for Motion held on 12/06/2007 03:00 PM: Hearing Vacated for transfer of Trust pending final Litigation - Todd Reed did not show for hearing	John T. Mitchell
2/11/2007	SCHE	MORELAND	Scheduling Order, Notice of Trial Setting & Initial Pretrial Order	John T. Mitchell
2/12/2007	HRSC	MORELAND	Hearing Scheduled (Court Trial - 2 Days 06/24/2008 09:00 AM)	John T. Mitchell

Teresa R. Blankenship vs. Washington Trust Bank

Date	Code	User		Judge
12/14/2007	CTLG	MORELAND	Hearing result for Status Conference held on 12/06/2007 03:00 PM: Court Log- Kootenai Cty	John T. Mitchell
	FIRT	MORELAND	File Returned	John T. Mitchell
1/2/2008	NOHG	MORELAND	Amended Notice Of Hearing	John T. Mitchell
	HRSC	MORELAND	Hearing Scheduled (Motion 03/04/2008 03:00 PM) Kootenai County	John T. Mitchell
1/7/2008	NOTD	MORELAND	Notice Of Taking Deposition Duces Tecum - Ned Brandenberger 1822/08 3:30	John T. Mitchell
	NOTD	MORELAND	Notice Of Taking Deposition Duces Tecum - Diane Albrethsen 1/22/08 1:30	John T. Mitchell
	NOTD	MORELAND	Notice Of Taking Deposition Duces Tecum - Susan J. Kuzma 1/22/08	John T. Mitchell
1/14/2008	MOTN	MORELAND	Motion to Dismiss	John T. Mitchell
	MEMO	MORELAND	Memorandum in Support of Motion to Dismiss	John T. Mitchell
	AFFD	MORELAND	Affidavit	John T. Mitchell
	MOTN	MORELAND	Motion for Protective Order	John T. Mitchell
	MEMO	MORELAND	Memorandum in Support of motion for Protective Order	John T. Mitchell
1/16/2008	NOHG	MORELAND	Notice Of Hearing - Motion for Protective Order	John T. Mitchell
	HRSC	MORELAND	Hearing Scheduled (Motion 01/22/2008 08:30 AM) for Protective Order	John T. Mitchell
	NOHG	MORELAND	Notice Of Hearing - Motion to Dismiss	John T. Mitchell
	HRSC	MORELAND	Hearing Scheduled (Motion to Dismiss 03/04/2008 03:00 PM)	John T. Mitchell
	NOHG	MORELAND	Second Amended Notice Of Hearing	John T. Mitchell
	FIOC	PHILLIPS	File Out Of County	John T. Mitchell
1/18/2008	NOHG	MORELAND	Notice Of Hearing	John T. Mitchell
1/22/2008	HRSC	MORELAND	Hearing Scheduled (Motion 01/22/2008 08:30 AM) for Protective Order	John T. Mitchell
	CTLG	PHILLIPS	Hearing result for Motion held on 01/22/2008 08:30 AM: Court Log- Kootenai County for Protective Order	John T. Mitchell
	DCHH	PHILLIPS	Hearing result for Motion held on 01/22/2008 08:30 AM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: for Protective Order	John T. Mitchell
	DENY	PHILLIPS	Hearing result for Motion held on 01/22/2008 08:30 AM: Motion Denied for Protective Order	John T. Mitchell
1/24/2008	SUBI	HENDRICKSO	Subpoena To Attend Hearing As A Witness - Diane Albrethsen	John T. Mitchell
	SUBI	HENDRICKSO	Subpoena to Attend Hearing as a Witness - Susan Kuzma	John T. Mitchell

Teresa R. Blankenship vs. Washington Trust Bank

Date	Code	User		Judge
1/24/2008	MOTN	MORELAND	Motion for Sanctions Pursuant to Idaho Rule of Civil Procedure 37(d) & Notice of Hearing	John T. Mitchell
1/25/2008	MISC	MORELAND	M&M Court Reporting - Transcript forwarded	John T. Mitchell
	HRSC	MORELAND	Hearing Scheduled (Motion 02/12/2008 04:00 PM) for Sanctions	John T. Mitchell
	ORDR	PHILLIPS	Order Denying Protective Order	John T. Mitchell
2/5/2008	OBJC	PHILLIPS	Objection to Petitioner's Motion for Sanctions	John T. Mitchell
	AFFD	PHILLIPS	Affidavit of Peter J Smith	John T. Mitchell
	AFFD	PHILLIPS	Affidavit of Thomas M Culbertson	John T. Mitchell
2/12/2008	CTLG	PHILLIPS	Hearing result for Motion held on 02/12/2008 04:00 PM: Court Log- Kootenai County for Sanctions	John T. Mitchell
	DCHH	PHILLIPS	Hearing result for Motion held on 02/12/2008 04:00 PM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: for Sanctions	John T. Mitchell
	GRNT	PHILLIPS	Hearing result for Motion held on 02/12/2008 04:00 PM: Motion Granted for Sanctions	John T. Mitchell
3/3/2008	ORDR	PHILLIPS	Order Regarding Hearing on Motions for Sanctions	John T. Mitchell
	NOFH	PHILLIPS	Amended Notice Of Hearing (on Motion to Dismiss) - April 17, 2008	John T. Mitchell
	CONT	PHILLIPS	Continued (Motion to Dismiss 04/17/2008 02:00 PM)	John T. Mitchell
3/5/2008	NOFH	PHILLIPS	Third Amended Notice Of Hearing on Motion for Transfer of Trust Pending Final Litigation - April 17, 2008	John T. Mitchell
	HRSC	PHILLIPS	Hearing Scheduled (Motion 04/17/2008 02:00 PM) for Transfer of Trust Pending Final Litigation	John T. Mitchell
	HRVC	PHILLIPS	Hearing result for Motion held on 03/04/2008 03:00 PM: Hearing Vacated Kootenai County (Reed filed amended hrng notice)	John T. Mitchell
4/4/2008	AFFD	PHILLIPS	Affidavit of Diane Albrethsen	John T. Mitchell
4/16/2008	AFFD	OPPELT	Affidavit of Teresa R. Blankenship	John T. Mitchell
	OBJC	OPPELT	Objection to Motion to Dismiss	John T. Mitchell
4/17/2008	CTLG	PHILLIPS	Hearing result for Motion to Dismiss held on 04/17/2008 02:00 PM: Court Log- Kootenai County	John T. Mitchell
	DCHH	PHILLIPS	Hearing result for Motion to Dismiss held on 04/17/2008 02:00 PM: District Court Hearing Held Court Reporter: Laurie Johnson Number of Transcript Pages for this hearing estimated:	John T. Mitchell
	DENY	PHILLIPS	Hearing result for Motion to Dismiss held on 04/17/2008 02:00 PM: Motion Denied	John T. Mitchell

Teresa R. Blankenship vs. Washington Trust Bank

Date	Code	User	Judge
4/17/2008	CTLG	PHILLIPS	Hearing result for Motion held on 04/17/2008 02:00 PM: Court Log- Kootenai County for Transfer of Trust Pending Final Litigation
	DCHH	PHILLIPS	Hearing result for Motion held on 04/17/2008 02:00 PM: District Court Hearing Held Court Reporter: Laurie Johnson Number of Transcript Pages for this hearing estimated: for Transfer of Trust Pending Final Litigation
	DENY	PHILLIPS	Hearing result for Motion held on 04/17/2008 02:00 PM: Motion Denied for Transfer of Trust Pending Final Litigation
4/22/2008	ORDR	HARBISON	OrderDenying Motion to Dismiss
4/28/2008	MISC	PHILLIPS	copy of letter from M & M Court Reporting re certificate of witness and change sheet re Diane Albrethsen
	MISC	PHILLIPS	copy of letter from M & M Court Reporting re certificate of witness and change sheet re Susan Kuzma
5/12/2008	ANSW	PHILLIPS	Answer by Respondent Washington Trust Bank
5/22/2008	MOTN	PHILLIPS	Motion to Amend Petition and Continue Trial and Notice of Hearing - June 10, 2008
	HRSC	PHILLIPS	Hearing Scheduled (Motion 06/10/2008 04:00 PM) Motion to Amend Petition
5/3/2008	RSPN	PHILLIPS	Washington Trust Bank's Response to Petitioner's Motion to Amend Petition and Motion to Continue Trial
5/10/2008	STIP	PHILLIPS	Stipulation to Allow Amended Petition and Continue Trial
	ORDR	PHILLIPS	Order Allowing Amended Petition and Continuing Trial (order received in Bonner County 6/25/06)
	HRVC	PHILLIPS	Hearing result for Motion held on 06/10/2008 04:00 PM: Hearing Vacated Motion to Amend Petition
5/24/2008	HRVC	PHILLIPS	Hearing result for Court Trial - 2 Days held on 06/24/2008 09:00 AM: Hearing Vacated
5/25/2008	HRSC	PHILLIPS	Hearing Scheduled (Court Trial - 2 Days 11/17/2008 09:00 AM)
5/26/2008		PHILLIPS	Notice Of Hearing
5/27/2008	FIRT	PHILLIPS	File Returned
5/29/2008	NOSV	PHILLIPS	Notice Of Service re Discovery (of Interrogatories) - Hyslop
	NOSV	PHILLIPS	Notice Of Service of Discovery - (of Requests for Production) - Hyslop
	MISC	PHILLIPS	*****BEGIN FILE NO. 2*****
5/15/2008	MOTN	PHILLIPS	Motion to Revoke Leave to File Amended Petition



Teresa R. Blankenship vs. Washington Trust Bank

Date	Code	User		Judge
8/15/2008	AFFD	PHILLIPS	Affidavit of William D. Hyslop	John T. Mitchell
	AFFD	PHILLIPS	Affidavit of Peter J Smith	John T. Mitchell
	NOFH	PHILLIPS	Notice Of Hearing - Sept 9, 2008	John T. Mitchell
	HRSC	PHILLIPS	Hearing Scheduled (Motion 09/09/2008 03:00 PM) to Revoke Leave to File Amended Petn	John T. Mitchell
8/18/2008	SUBC	PHILLIPS	Substitution Of Counsel - Fulgham & Peter Smith IV in; Hyslop out for Washington Trust Bank	John T. Mitchell
8/20/2008	MOTN	PHILLIPS	Motion to Refer Case to Mediation	John T. Mitchell
	FIOC	PHILLIPS	File Out Of County	John T. Mitchell
	NOFH	PHILLIPS	Notice Of Hearing - Sept 9, 2008	John T. Mitchell
	HRSC	PHILLIPS	Hearing Scheduled (Motion 09/09/2008 03:00 PM) to Refer Case to Mediation	John T. Mitchell
8/26/2008	PETN	PHILLIPS	Amended Petition for Removal of Trustee, Preliminary Injunction and Complaint for Damages	John T. Mitchell
	MOTN	PHILLIPS	Motion for Leave to Resign - Peter Smith	John T. Mitchell
	NOFH	PHILLIPS	Notice Of Hearing - Sept 9, 2008	John T. Mitchell
	HRSC	PHILLIPS	Hearing Scheduled (Motion 09/09/2008 03:00 PM) for Leave to Resign	John T. Mitchell
	MOTN	PHILLIPS	Motion to Compel Discovery	John T. Mitchell
	AFFD	PHILLIPS	Affidavit of Peter J. Smith in Support of Motion to Compel	John T. Mitchell
	NOFH	PHILLIPS	Notice Of Hearing Sept 9, 2008	John T. Mitchell
	HRSC	PHILLIPS	Hearing Scheduled (Motion to Compel 09/09/2008 03:00 PM)	John T. Mitchell
9/3/2008	NOTC	PHILLIPS	Notice of Withdrawal of Motion to Compel	John T. Mitchell
	HRVC	PHILLIPS	Hearing result for Motion to Compel held on 09/09/2008 03:00 PM: Hearing Vacated	John T. Mitchell
9/9/2008	CTLG	PHILLIPS	Hearing result for Motion held on 09/09/2008 03:00 PM: Court Log- Kootenai County for Leave to Resign	John T. Mitchell
	DCHH	PHILLIPS	Hearing result for Motion held on 09/09/2008 03:00 PM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: for Leave to Resign	John T. Mitchell
	GRNT	PHILLIPS	Hearing result for Motion held on 09/09/2008 03:00 PM: Motion Granted for Leave to Resign	John T. Mitchell
	CTLG	PHILLIPS	Hearing result for Motion held on 09/09/2008 03:00 PM: Court Log- Kootenai County to Refer Case to Mediation	John T. Mitchell
	GRNT	PHILLIPS	Hearing result for Motion held on 09/09/2008 03:00 PM: Motion Granted to Refer Case to Mediation	John T. Mitchell

Teresa R. Blankenship vs. Washington Trust Bank

Date	Code	User	Judge
9/9/2008	CTLG	PHILLIPS	Hearing result for Motion held on 09/09/2008 03:00 PM: Court Log- Kootenai County to Revoke Leave to File Amended Petn
	DCHH	PHILLIPS	Hearing result for Motion held on 09/09/2008 03:00 PM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: to Revoke Leave to File Amended Petn
	DCHH	PHILLIPS	Hearing result for Motion held on 09/09/2008 03:00 PM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: to Refer Case to Mediation
9/10/2008	ORDR	PHILLIPS	Order Granting Motion to Refer Case to Mediation
	ORDR	PHILLIPS	Order Granting Respondent's Motion for Leave to Resign
9/12/2008	FIRT	PHILLIPS	File Returned
9/17/2008	FIOC	PHILLIPS	File Out Of County
9/18/2008	NOTD	MORELAND	Notice Of Taking Deposition of Teresa R. Blankenship 10/9/08 9:00
	NOTD	MORELAND	Notice Of Taking Deposition of Gary Blankenship 10/9/08 1:30
1/19/2008	NTSD	PHILLIPS	Notice Of Service Of Discovery Documents
1/22/2008	NOFG	PHILLIPS	Notice Of Filing Verified Account of Former Trustee Under Seal
	NOFH	PHILLIPS	Notice Of Hearing - Sept 25, 2008
	AFSV	PHILLIPS	Affidavit Of Service
1/25/2008	NOTC	PHILLIPS	Notice Vacating Hearing of 9/25/2008 4:00 PM
	CINF	PHILLIPS	Clerk Information - also received blank order for judge to sign
	OBJC	PHILLIPS	Objection to Notice of Filing Verified Account of Former Trustee Under Seal
	MOTN	PHILLIPS	Motion to Appoint Trustee and Transfer of Assets in Trust and Notice of Hearing - Oct 21, 2008
	HRSC	PHILLIPS	Hearing Scheduled (Motion 10/21/2008 04:00 PM) to Appoint Trustee and Transfer Assets (Kootenai County)
0/6/2008	NOSV	PHILLIPS	Notice Of Service (re discovery)
0/8/2008	NOTC	PHILLIPS	Notice Canceling Deposition of Gary Blankenship - Oct 9, 2008
	NOTC	PHILLIPS	Notice Canceling Deposition of Teresa Blankenship - Oct 9, 2008
	MOTN	PHILLIPS	Motion to Compel Discovery
	AFFD	PHILLIPS	Affidavit in Support of Motion to Compel Discovery

Teresa R. Blankenship vs. Washington Trust Bank

Date	Code	User	Judge
10/8/2008	NOFH	PHILLIPS	Notice Of Hearing - Oct 21, 2008
	HRSC	PHILLIPS	Hearing Scheduled (Motion to Compel 10/21/2008 04:00 PM)
	NOFH	PHILLIPS	Amended Notice Of Hearing - (re trust; same time and date)
	MOTN	PHILLIPS	Motion to Continue Trial
	NOFH	PHILLIPS	Notice Of Hearing (on Motion to Continue) - Oct 21, 2008
	HRSC	PHILLIPS	Hearing Scheduled (Motion to Continue 10/21/2008 04:00 PM)
10/16/2008	NOSV	PHILLIPS	Notice Of Service (of discovery) - Reed
10/21/2008	APER	BOWERS	Other party: Bowman, William Michael Appearance James T. Diehl
		BOWERS	Filing: 17 - All Other Cases Paid by: Diehl, James T. (attorney for Bowman, William Michael) Receipt number: 0403198 Dated: 10/21/2008 Amount: \$58.00 (Check) For: Bowman, William Michael (other party)
	MISC	PHILLIPS	Withdrawal of Motion to Continue Trial - Fulgham
	HRVC	PHILLIPS	Hearing result for Motion to Continue held on 10/21/2008 04:00 PM: Hearing Vacated
	MOTN	PHILLIPS	Motion for Leave to Intervene
	NOFH	PHILLIPS	Notice Of Hearing - Nov 6, 2008
	HRSC	PHILLIPS	Hearing Scheduled (Motion to Intervene 11/06/2008 02:00 PM) Diehl's Motion for William Michael Bowman
	NOSV	PHILLIPS	Notice Of Service (of discovery - Reed)
	NOSV	PHILLIPS	Notice Of Service (of discovery - second one - Reed)
	WDRW	PHILLIPS	Hearing result for Motion to Compel held on 10/21/2008 04:00 PM: Withdrawn
	CTLG	PHILLIPS	Hearing result for Motion held on 10/21/2008 04:00 PM: Court Log- Kootenai County to Appoint Trustee and Transfer Assets (Kootenai County)
	GRNT	PHILLIPS	Hearing result for Motion held on 10/21/2008 04:00 PM: Motion Granted to Appoint Trustee and Transfer Assets (Kootenai County)
0/23/2008	AFFD	PHILLIPS	Affidavit in Support of Motion to Intervene
	NOTC	PHILLIPS	Amended Notice of Deposition of Teresa R Blankenship - Nov 4, 2008
	NOTC	PHILLIPS	Amended Notice of Deposition of Gary Blankenship - Nov 3, 2008
	ORDR	PHILLIPS	Order Appointing Beverly Kee CPA as Trustee
0/27/2008	ORDR	PHILLIPS	Order Settling Final Account of Former Trustee

Teresa R. Blankenship vs. Washington Trust Bank

Date	Code	User	Judge
10/27/2008	DCHH	PHILLIPS	Hearing result for Motion held on 10/21/2008 04:00 PM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: to Appoint Trustee and Transfer Assets (Kootenai County)
10/31/2008	NOTC	PHILLIPS	Notice Canceling Deposition of Teresa Blankenship - Nov 4, 2008
	NOTC	PHILLIPS	Notice Canceling Deposition of Gary Blankenship - Nov 3, 2008
11/5/2008	MOTN	PHILLIPS	Motion to Shorten Time
	NOFH	PHILLIPS	Notice Of Hearing - Nov 6, 2008
	AFFD	PHILLIPS	Affidavit in Support of Motion to Vacate trial date
	MOTN	PHILLIPS	Motion to Vacate and Continue Trial Setting
	HRSC	PHILLIPS	Hearing Scheduled (Motion 11/06/2008 02:00 PM) to Shorten Time
	HRSC	PHILLIPS	Hearing Scheduled (Motion to Continue 11/06/2008 02:00 PM)
	NOTC	PHILLIPS	Notice of No Objection to William Michael Bowman's Motion to Intervene
	MOTN	PHILLIPS	Motion for Recovery of Attorneys' Fees Associated With Respondent's Motion to Compel Discovery
	MISC	PHILLIPS	Cost Bill and Affidavit Associated with Respondent's Motion to Compel
11/6/2008	MISC	PHILLIPS	No Objection (re intervention) - Reed
	MISC	PHILLIPS	No Objection (re continuance) - Reed
	CTLG	PHILLIPS	Hearing result for Motion to Intervene held on 11/06/2008 02:00 PM: Court Log- Kootenai County Diehl's Motion for William Michael Bowman
	DCHH	PHILLIPS	Hearing result for Motion to Intervene held on 11/06/2008 02:00 PM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: Diehl's Motion for William Michael Bowman
	GRNT	PHILLIPS	Hearing result for Motion to Intervene held on 11/06/2008 02:00 PM: Motion Granted Diehl's Motion for William Michael Bowman
	CTLG	PHILLIPS	Hearing result for Motion to Continue held on 11/06/2008 02:00 PM: Court Log- Kootenai County
	DCHH	PHILLIPS	Hearing result for Motion to Continue held on 11/06/2008 02:00 PM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated:

Teresa R. Blankenship vs. Washington Trust Bank

Date	Code	User	Judge
11/6/2008	GRNT	PHILLIPS	Hearing result for Motion to Continue held on 11/06/2008 02:00 PM: Motion Granted
11/12/2008	ORDR	PHILLIPS	Order Allowing Intervention
	ORDR	PHILLIPS	Order to Vacate, Continue and Reset Trial
	HRVC	PHILLIPS	Hearing result for Court Trial - 2 Days held on 11/17/2008 09:00 AM: Hearing Vacated
	HRSC	PHILLIPS	Hearing Scheduled (Court Trial - 4 Days 03/16/2009 09:00 AM) Bonner County
11/13/2008		PHILLIPS	Notice Of Hearing
11/21/2008	FIRT	OPPELT	File Returned
1/29/2009	MOTN	OPPELT	Motion for Summary Judgment
	MEMO	OPPELT	Memorandum in Support of Respondent's Motion for Summary Judgment
	AFFD	OPPELT	Affidavit of Peter J. Smith in Support of Respondent's Motion for Summary Judgment
	AFFD	OPPELT	Affidavit of Susan J. Kuzma in Support of Respondent's Motion for Summary Judgment
	NOFH	OPPELT	Notice Of Hearing
	HRSC	OPPELT	Hearing Scheduled (Motion for Summary Judgment 02/24/2009 03:00 PM) in Kootenai County
	STIP	OPPELT	Stipulation to Transfer Trustee
	MOTN	OPPELT	Motion to Waive Time and Notice of Hearing
	OBJC	OPPELT	Objection to Motion for Summary Judgment and Notice of Hearing
	HRSC	OPPELT	Hearing Scheduled (Motion 02/04/2009 02:00 PM) for Objection to Motion for Summary Judgment (In Kootenai County)
2/2/2009	OBJC	OPPELT	Objection to Motion for Summary Judgment
2/4/2009	RSPN	PHILLIPS	Response to Petitioner's Objection to Motion for Summary Judgment
	FIOC	PHILLIPS	File Out Of County
	CTLG	PHILLIPS	Hearing result for Motion held on 02/04/2009 02:00 PM: Court Log- for Objection to Motion for Summary Judgment (In Kootenai County)
	DCHH	PHILLIPS	Hearing result for Motion held on 02/04/2009 02:00 PM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: for Objection to Motion for Summary Judgment (In Kootenai County)
	CONT	PHILLIPS	Continued (Motion for Summary Judgment 03/02/2009 04:00 PM) in Kootenai County

Teresa R. Blankenship vs. Washington Trust Bank

Date	Code	User	Judge
2/17/2009	AFFD	OPPELT	Affidavit of Todd Reed in Support of Memorandum of Points and Authorities in Opposition to Respondent's Motion for Summary Judgment
	MEMO	OPPELT	BEGIN FILE #5-Memorandum of Points and Authorities in Opposition to Respondent's Motion for Summary Judgment
	AFFD	OPPELT	Affidavit of Teresa R. Blankenship in Support of Memorandum of Points and Authorities in Opposition to Respondent's Motion for Summary Judgment
	MISC	PHILLIPS	No Objection to Stipulation to Transfer Trustee
	MEMO	PHILLIPS	Memorandum in Opposition to Motion for Summary Judgment - Diehl
	AFFD	PHILLIPS	Affidavit of J.T. Diehl
	COMP	PHILLIPS	Complaint Filed - Complaint of Intervenor
2/18/2009	AFFD	OPPELT	Affidavit of Bev Kee in Support of Memorandum of Points and Authorities in Opposition to Respondent's Motion for Summary Judgment
2/19/2009	OBJC	OPPELT	Respondent Washington Trust Bank's Objection and Motion to Strike Petitioner's Untimely Opposition to Summary Judgment
	OBJC	PHILLIPS	Objection to Lack of Service
	AFFD	PHILLIPS	Affidavit of Mischelle R Fulgham Regarding Non-Service of Stipulation to Transfer Trustee
2/24/2009	MOTN	OPPELT	Motion to Shorten Time
	MOTN	OPPELT	Motion for Leave to Intervene
	AFFD	OPPELT	Affidavit of Eric Bowman in Support of Motion to Intervene
	NOFH	OPPELT	Notice Of Hearing
	HRSC	OPPELT	Hearing Scheduled (Motion 03/02/2009 04:00 PM) for Leave to Intervene (in Kootenai County)
2/25/2009	MISC	OPPELT	Respondent's Motion to Strike
	MOTN	OPPELT	Respondent's Motion to Shorten Time
	AFFD	OPPELT	Affidavit of Mischelle R. Fulgham Re: Summary Judgment
	BREF	OPPELT	Reply Brief in Support of Respondent's Motion for Summary Judgment and in Response to Petitioner's Memorandum of Points and Authorities in Opposition to Respondent's Motion for Summary Judgment and Intervenor's Memorandum in Opposition for Summary Judgment

Teresa R. Blankenship vs. Washington Trust Bank

Date	Code	User	Judge
3/2/2009	DCHH	PHILLIPS	Hearing result for Motion held on 11/06/2008 02:00 PM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: to Shorten Time
	GRNT	PHILLIPS	Hearing result for Motion held on 11/06/2008 02:00 PM: Motion Granted to Shorten Time
	CTLG	PHILLIPS	Hearing result for Motion held on 11/06/2008 02:00 PM: Court Log- Kootenai County to Shorten Time
	DENY	PHILLIPS	Motion Denied - Motion to Strike (hearing not noticed for this Motion)
	CTLG	PHILLIPS	Hearing result for Motion held on 03/02/2009 04:00 PM: Court Log- for Leave to Intervene (in Kootenai County)
	DCHH	PHILLIPS	Hearing result for Motion held on 03/02/2009 04:00 PM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: for Leave to Intervene (in Kootenai County)
	GRNT	PHILLIPS	Hearing result for Motion held on 03/02/2009 04:00 PM: Motion Granted for Leave to Intervene (in Kootenai County)
	CTLG	PHILLIPS	Hearing result for Motion for Summary Judgment held on 03/02/2009 04:00 PM: Court Log- in Kootenai County
	DCHH	PHILLIPS	Hearing result for Motion for Summary Judgment held on 03/02/2009 04:00 PM: District Court Hearing Held Court Reporter: Number of Transcript Pages for this hearing estimated: in Kootenai County
	DENY	PHILLIPS	Hearing result for Motion for Summary Judgment held on 03/02/2009 04:00 PM: Motion Denied - Partially denied re negligence; partially granted in Kootenai County
	MOTN	PHILLIPS	Motion to Strike
	ORDR	PHILLIPS	Order on Respondent's Motion to Strike (written by judge on Motion to Strike)
	WITN	PHILLIPS	Respondent's Witness List
	EXHB	PHILLIPS	Respondent's Exhibit List
3/3/2009	WITN	PHILLIPS	Intervenor's Witness List
3/4/2009	MISC	PHILLIPS	Intervenor's Pretrial Compliance
	NOTC	PHILLIPS	Notice of Pretrial Compliance Re: Witnesses and Exhibits - Reed
	NOTC	PHILLIPS	Supplemental Notice of Pretrial Compliance Re: Witnesses and Exhibits

Teresa R. Blankenship vs. Washington Trust Bank

Date	Code	User	Judge
3/4/2009	NOTC	MUELLER	Notice of Delivery of Original transcript filed by Julie Foland to Ms. Fulgham
3/5/2009	MOTN	OPPELT	Motion for Certification of Partial Summary Judgment Pursuant to IRCP Rule 54(b) and Motion to Continue Trial
	ORDR	PHILLIPS	Order Allowing Intervention of Eric Bowman
	APER	PHILLIPS	Other party: Bowman, Eric L. Appearance James T. Diehl
3/6/2009	MOTN	PHILLIPS	Motion to Change Venue of Trial
	MOTN	PHILLIPS	Motion to Amend Pretrial Order Filed December 12, 2007 to allow Depositions of Intervenors
	AFFD	PHILLIPS	Affidavit of Mischelle R Fulgham in support of Motion to Change Venue of Trial
3/9/2009	ORDR	PHILLIPS	Order Denying Petitioner's Objection to Respondent's Objection
	ORDR	PHILLIPS	Order Regarding Respondent's Motion for Summary Judgment
	ORDR	PHILLIPS	Order Overruling Washington Trust Bank's Objection and Denying Its Motion to Strike
	MOTN	OPPELT	Respondent's Motion to Shorten Time
	NOFH	OPPELT	Notice Of Hearing
	HRSC	OPPELT	Hearing Scheduled (Motion 03/11/2009 11:00 AM) to Amend Pretrial Order Filed December 12, 2007 to Allow Depositions of Intervenors
	HRSC	OPPELT	Hearing Scheduled (Motion for Change of Venue 03/11/2009 11:00 AM) In Kootenai County
	HRSC	OPPELT	Hearing Scheduled (Motion 03/11/2009 11:00 AM) to Shorten Time (In Kootenai County)
	AFFD	OPPELT	Affidavit of J.T. Diehl in Support of Objection to Amending Pretrial Order
	OBJC	OPPELT	Objection to Amending Pretrial Order
	OBJC	OPPELT	Objection to Motion for Change of Venue
	AFFD	OPPELT	Affidavit of J.T. Diehl
	STIP	OPPELT	Stipulated Motion to Shorten Time and to Hold Hearing by Telephone Conference and Notice of Hearing March 11, 2009 at 11:00 a.m.
	HRSC	OPPELT	Hearing Scheduled (Motion 03/11/2009 11:00 AM) for Certification of Partial Summary Judgment Pursuant to I.R.C.P. Rule 54(b)
	HRSC	OPPELT	Hearing Scheduled (Motion 03/11/2009 11:00 AM) to Vacate Trial (In Kootenai County)
	STIP	OPPELT	Stipulation on Submission of Trial Briefs
	OBJC	OPPELT	Objection to Motion for Change of Venue
5/11/2009	NOTD	MORELAND	Notice of Deposition Duces Tecum of William Michael Bowman

Teresa R. Blankenship vs. Washington Trust Bank

Date	Code	User	Judge
3/11/2009	NOTD	MORELAND	Notice of Deposition Duces Tecum of Eric Bowman
	OBJC	MORELAND	Objection to Entry of a Final Judgment Under I.R.C.P. 54(b)
	MISC	OPPELT	Subpoena Duces Tecum to William Michael Bowman
	MISC	OPPELT	Subpoena Duces Tecum to Eric Bowman
	CTLG	PHILLIPS	Hearing result for Motion held on 03/11/2009 11:00 AM: Court Log- to Shorten Time (In Kootenai County)
	DCHH	PHILLIPS	Hearing result for Motion held on 03/11/2009 11:00 AM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: to Shorten Time (In Kootenai County)
	GRNT	PHILLIPS	Hearing result for Motion held on 03/11/2009 11:00 AM: Motion Granted to Shorten Time (In Kootenai County)
	CTLG	PHILLIPS	Hearing result for Motion for Change of Venue held on 03/11/2009 11:00 AM: Court Log- In Kootenai County
	DCHH	PHILLIPS	Hearing result for Motion for Change of Venue held on 03/11/2009 11:00 AM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: In Kootenai County
	DENY	PHILLIPS	Hearing result for Motion for Change of Venue held on 03/11/2009 11:00 AM: Motion Denied In Kootenai County
	CTLG	PHILLIPS	Hearing result for Motion held on 03/11/2009 11:00 AM: Court Log- for Certification of Partial Summary Judgment Pursuant to I.R.C.P. Rule 54(b)
	DCHH	PHILLIPS	Hearing result for Motion held on 03/11/2009 11:00 AM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: for Certification of Partial Summary Judgment Pursuant to I.R.C.P. Rule 54(b)
	CTLG	PHILLIPS	Hearing result for Motion held on 03/11/2009 11:00 AM: Court Log- to Vacate Trial (In Kootenai County)
	DCHH	PHILLIPS	Hearing result for Motion held on 03/11/2009 11:00 AM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: to Vacate Trial (In Kootenai County)

Teresa R. Blankenship vs. Washington Trust Bank

Date	Code	User	Judge
3/11/2009	DENY	PHILLIPS	Hearing result for Motion held on 03/11/2009 11:00 AM: Motion Denied to Vacate Trial (In Kootenai County)
	CTLG	PHILLIPS	Hearing result for Motion held on 03/11/2009 11:00 AM: Court Log- Kootenai County to Amend Pretrial Order Filed December 12, 2007 to Allow Depositions of Intervenor
	DCHH	PHILLIPS	Hearing result for Motion held on 03/11/2009 11:00 AM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: to Amend Pretrial Order Filed December 12, 2007 to Allow Depositions of Intervenor
	DENY	PHILLIPS	Motion Denied - to Amend Pretrial Order
	GRNT	PHILLIPS	Motion Granted - to depose Intervenor or in the alternative, bar testimony
	DENY	PHILLIPS	Motion Denied - for Entry of Final Judgment
3/12/2009	ORDR	PHILLIPS	Order Regarding Rulings from March 11, 2009 Hearing
	AMCO	OPPELT	First Amended Complaint of Intervenor(s)
3/16/2009	CTLG	PHILLIPS	Hearing result for Court Trial - 4 Days held on 03/16/2009 09:00 AM: Court Log- #09-76 Bonner County
	CTST	PHILLIPS	Hearing result for Court Trial - 4 Days held on 03/16/2009 09:00 AM: Court Trial Started Bonner County
	SEDT	PHILLIPS	Hearing result for Court Trial - 4 Days held on 03/16/2009 09:00 AM: Settlement During Trial Or Hearing Bonner County
	MOTN	PHILLIPS	Motion to Strike Respondent's Defenses; or Motion to Strike Expert Testimony of Sue Cook or Motion to Continue Trial and Notice of Hearing - March 16, 2009
	AFFD	PHILLIPS	Affidavit of Todd Reed in support of Motion to Strike Respondent's Defenses or Motion to Strike Expert Testimony of Sue Cook or Motion to Continue
	MOTN	PHILLIPS	Motion to Waive Time and Notice of Hearing- March 16, 2009
	HRSC	PHILLIPS	Hearing Scheduled (Hearing Scheduled 03/16/2009 09:00 AM) Multiple Motions by Reed
	CTLG	PHILLIPS	Hearing result for Hearing Scheduled held on 03/16/2009 09:00 AM: Court Log- 09-76 Multiple Motions by Reed

Teresa R. Blankenship vs. Washington Trust Bank

Date	Code	User	Judge
3/16/2009	DCHH	PHILLIPS	Hearing result for Hearing Scheduled held on 03/16/2009 09:00 AM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: Multiple Motions by Reed John T. Mitchell
	BREF	OPPELT	Respondent's Trial Brief John T. Mitchell
3/24/2009	MOTN	PHILLIPS	Motion for Order Dismissing Intervenor William Michael Bowman John T. Mitchell
	NOFH	PHILLIPS	Notice Of Hearing - April 29, 2009 John T. Mitchell
	HRSC	PHILLIPS	Hearing Scheduled (Motion 04/29/2009 01:30 PM) to Dismiss Intervenor William Michael Bowman (Kootenai County) John T. Mitchell
3/25/2009	MEMO	OPPELT	Memorandum in Support of Motion for Order Directing Trustee to Make Loan Payment John T. Mitchell
	MOTN	OPPELT	Motion for Order Directing Trustee to Make Loan Payment John T. Mitchell
	NOFH	OPPELT	Notice Of Hearing John T. Mitchell
	HRSC	OPPELT	Hearing Scheduled (Motion 04/29/2009 01:30 PM) for an Order Directing Payment of Trustee John T. Mitchell
	OBJC	OPPELT	Objection to Transfer of Trustee Without Payment of Outstanding Liabilities John T. Mitchell
	LETT	OPPELT	Copy of Letter from M&M Court Reporting, Inc. John T. Mitchell
	LETT	OPPELT	Copy of Letter from M&M Court Reporting, Inc. John T. Mitchell
	AFFD	OPPELT	Affidavit of Mischelle R. Fulgham in Support of Motion to Dismiss Intervenor William Michael Bowman with Prejudice John T. Mitchell
3/26/2009	AFFD	OPPELT	Affidavit of Susan J. Kuzma in Support of Respondent's Motion for Order Directing Trustee to Make Loan Payment John T. Mitchell
3/31/2009	MISC	MUELLER	Req by Teresa Blankenship for Transcript of court trial held March 16, 2009; faxed to Julie Foland, Ct. Rep John T. Mitchell
	MISC	PHILLIPS	Amended Notice of Hearing - May 4, 2009 John T. Mitchell
	CONT	PHILLIPS	Continued (Motion 05/04/2009 04:00 PM) for an Order Directing Payment of Trustee John T. Mitchell
	CONT	PHILLIPS	Continued (Motion 05/04/2009 04:00 PM) to Dismiss Intervenor William Michael Bowman (Kootenai County) John T. Mitchell
4/1/2009		MUELLER	Miscellaneous Payment: Tape/copy Time Fee Paid by: Blankenship, Teresa R. Receipt number: 0412369 Dated: 4/1/2009 Amount: \$5.00 (Cash) John T. Mitchell
		MUELLER	Miscellaneous Payment: Court Tape Fee Paid by: Blankenship, Teresa R. Receipt number: 0412369 Dated: 4/1/2009 Amount: \$1.25 (Cash) John T. Mitchell
		MUELLER	Miscellaneous Payment: Court Tape Sales Tax Paid by: Blankenship, Teresa R. Receipt number: 0412369 Dated: 4/1/2009 Amount: \$.08 (Cash) John T. Mitchell

Teresa R. Blankenship vs. Washington Trust Bank

Date	Code	User	Judge
4/1/2009	MOTN	PHILLIPS	Motion for Certification of Partial Summary Judgment Pursuant to IRCP Rule 54(b)
	NOFH	PHILLIPS	Notice Of Hearing - May 4, 2009
	HRSC	PHILLIPS	Hearing Scheduled (Motion 05/04/2009 04:00 PM) for Certification of Partial Summary Judgment
4/10/2009	FIRT	OPPELT	File Returned (Not Sure When)
	MEMO	OPPELT	Memorandum in Support of Motion to Dismiss First Amended Complaint of Intervenor(s)
	MOTN	OPPELT	Motion to Dismiss First Amended Complaint of Intervenor(s)
	ANSW	OPPELT	Answer to First Amended Complaint of Intervenor(s)
4/11/2009	MISC	PHILLIPS	*****BEGIN FILE NO. 7*****
4/16/2009	MISC	PHILLIPS	Notice of Withdrawal of Objection to Transfer of Trustee and Notice of withdrawal of Respondent's Motion for Payment from Current Trustee
4/21/2009	AFFD	OPPELT	Affidavit of Todd M. Reed in Support of Motion for Enforcement of Agreement
	MOTN	OPPELT	Motion for Enforcement of Agreement and Notice of Hearing
	HRSC	OPPELT	Hearing Scheduled (Motion 05/04/2009 04:00 PM) for Enforcement of Agreement
4/24/2009	OBJC	PHILLIPS	Objection to Motion to Dismiss Amended Complaint
	OBJC	PHILLIPS	Objection to Motion to Dismiss Intervenor, William Michael Bowman
	AFFD	PHILLIPS	Affidavit in Opposition to Respondent's Motion to Dismiss Intervenor, William Michael Bowman
	AFFD	PHILLIPS	Affidavit in Opposition to Respondent's Motion to Dismiss First Amended Complaint
4/28/2009	FIOC	OPPELT	File Out Of County - Judge Mitchell
	MEMO	PHILLIPS	Respondent's Memorandum in Opposition to Intervenor's Motion for Certification of Partial Summary Judgment Pursuant to IRCP 54(B)
4/30/2009	BREF	PHILLIPS	Reply Brief in Support of Motion to Dismiss Intervenor William Michael Bowman
	MISC	PHILLIPS	copy of Letter from M & M Court Reporting to Fulgham re deposition
4/4/2009	DCHH	PHILLIPS	Hearing result for Motion held on 05/04/2009 04:00 PM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: none given for an Order Directing Payment of Trustee

Teresa R. Blankenship vs. Washington Trust Bank

Date	Code	User	Judge
5/4/2009	GRNT	PHILLIPS	Hearing result for Motion held on 05/04/2009 04:00 PM: Motion Granted for an Order Directing Payment of Trustee John T. Mitchell
	CTLG	PHILLIPS	Hearing result for Motion held on 05/04/2009 04:00 PM: Court Log- (faxed copy from Kootenai County) for Enforcement of Agreement John T. Mitchell
	DCHH	PHILLIPS	Hearing result for Motion held on 05/04/2009 04:00 PM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: none given for John T. Mitchell
	GRNT	PHILLIPS	Hearing result for Motion held on 05/04/2009 04:00 PM: Motion Granted for Enforcement of Agreement John T. Mitchell
	CTLG	PHILLIPS	Hearing result for Motion held on 05/04/2009 04:00 PM: Court Log- Kootenai County to Dismiss Intervenor William Michael Bowman (Kootenai County) John T. Mitchell
	DCHH	PHILLIPS	Hearing result for Motion held on 05/04/2009 04:00 PM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: none given to John T. Mitchell
	DENY	PHILLIPS	Hearing result for Motion held on 05/04/2009 04:00 PM: Motion Denied to Dismiss Intervenor William Michael Bowman (Kootenai County) John T. Mitchell
	CTLG	PHILLIPS	Hearing result for Motion held on 05/04/2009 04:00 PM: Court Log- Kootenai County for Certification of Partial Summary Judgment John T. Mitchell
	DCHH	PHILLIPS	Hearing result for Motion held on 05/04/2009 04:00 PM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: none given for Certification of Partial Summary Judgment John T. Mitchell
5/5/2009	AFFD	OPPELT	Affidavit of Mischelle R. Fulgham in Support of Settlement Agreement John T. Mitchell
	ORDR	PHILLIPS	Order for Dismissal John T. Mitchell
	ORDR	PHILLIPS	Order to Transfer Trustee (from Kee to Jensen) John T. Mitchell
	MISC	PHILLIPS	court log faxed from Kootenai County John T. Mitchell
	DSAT	PHILLIPS	Dismissal During/after Trial Or Hearing John T. Mitchell
	CDIS	PHILLIPS	Civil Disposition entered for: Washington Trust Bank, Defendant; Bowman, Eric L., Other Party; Bowman, William Michael, Other Party; Blankenship, Teresa R., Plaintiff. Filing date: 5/5/2009 John T. Mitchell

Teresa R. Blankenship vs. Washington Trust Bank

Date	Code	User		Judge
5/5/2009	STAT	PHILLIPS	STATUS CHANGED: Closed	John T. Mitchell
5/7/2009	MEMO	OPPELT	Memorandum and Affidavit of Attorney Fees	John T. Mitchell
5/8/2009	ORDR	PHILLIPS	Order Denying Respondent's Motion to Dismiss Intervenor William Michael Bowman	John T. Mitchell
5/12/2009	NOTC	OPPELT	Notice of Delivery of Original Transcript	John T. Mitchell
5/18/2009	OBJC	PHILLIPS	Respondent's Objection to Petitioner's memorandum and Affidavit of Attorney Fees	John T. Mitchell
	MOTN	PHILLIPS	Motion for Reconsideration	John T. Mitchell
	MEMO	PHILLIPS	Memorandum in Support of Motion for Reconsideration	John T. Mitchell
	AFFD	PHILLIPS	Supplemental Affidavit of Mischelle R Fulgham in Support of Motion for Reconsideration	John T. Mitchell
	NOFH	PHILLIPS	Notice Of Hearing Re: Motion to Dismiss Intervenor's Amended Complaint and Motion for Reconsideration - June 24, 2009	John T. Mitchell
	HRSC	PHILLIPS	Hearing Scheduled (Motion 06/24/2009 02:30 PM) to Dismiss Intervenor's Amended Complaint	John T. Mitchell
	HRSC	PHILLIPS	Hearing Scheduled (Motion 06/24/2009 02:30 PM) for Reconsideration	John T. Mitchell
3/18/2009	BREF	PHILLIPS	Reply Brief in Support of Motion to Dismiss First Amended Complaint of Intervenor	John T. Mitchell
3/19/2009	NOFG	PHILLIPS	Notice Of Filing (memorandum in opposition)	John T. Mitchell
	MEMO	PHILLIPS	Memorandum in Opposition to Motion for Reconsideration and Request for Attorney's Fees Enforcement	John T. Mitchell
3/23/2009	MEMO	OPPELT	Rebuttal Memorandum in Opposition to Motion to Dismiss Amended Complaint	John T. Mitchell
	NOFH	OPPELT	Amended Notice Of Hearing (Time Changed on June 24th to 3:00 pm for Motion to Dismiss Intervenor's Amended Complaint and Motion for Reconsideration)	John T. Mitchell
3/24/2009	CTLG	PHILLIPS	Hearing result for Motion held on 06/24/2009 03:00 PM: Court Log- (no tape no. - Kootenai County) for Reconsideration	John T. Mitchell
	DCHH	PHILLIPS	Hearing result for Motion held on 06/24/2009 03:00 PM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: none given for Reconsideration	John T. Mitchell
	DENY	PHILLIPS	Hearing result for Motion held on 06/24/2009 03:00 PM: Motion Denied for Reconsideration	John T. Mitchell
	CTLG	PHILLIPS	Hearing result for Motion held on 06/24/2009 03:00 PM: Court Log- to Dismiss Intervenor's Amended Complaint (no tape # - Kootenai County)	John T. Mitchell

Teresa R. Blankenship vs. Washington Trust Bank

Date	Code	User	Judge
6/24/2009	DCHH	PHILLIPS	Hearing result for Motion held on 06/24/2009 03:00 PM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: none given Dismiss Intervenor's Amended Complaint to John T. Mitchell
6/30/2009	MEMO	OPPELT	Memorandum and Affidavit of Attorney Fees John T. Mitchell
7/2/2009	NOFH	OPPELT	Notice Of Hearing John T. Mitchell
	HRSC	OPPELT	Hearing Scheduled (Motion 09/09/2009 02:30 PM) for Attorney Fees (in Kootenai County) John T. Mitchell
7/17/2009	JDMT	PHILLIPS	Judgment in Re: Attorney Fees on Motion to Reconsider John T. Mitchell
	CINF	PHILLIPS	Clerk Information - no copies or envelopes for mailing of above John T. Mitchell
	CDIS	PHILLIPS	Civil Disposition entered for: Washington Trust Bank, Defendant; Bowman, Eric L., Other Party; Blankenship, Teresa R., Plaintiff. Filing date: 7/17/2009 John T. Mitchell
9/4/2009	NOTC	PHILLIPS	Notice to Vacate Motion to Determine Attorney Fees and Hearing John T. Mitchell
	HRVC	PHILLIPS	Hearing result for Motion held on 09/09/2009 02:30 PM: Hearing Vacated for Attorney Fees (in Kootenai County) John T. Mitchell
	NOTC	HARBISON	Notice of payment of Attorneys Fees John T. Mitchell
9/24/2009	FIRT	OPPELT	File Returned John T. Mitchell
1/20/2010	STIP	PHILLIPS	Stipulation to Transfer Trustee John T. Mitchell
	NOTC	PHILLIPS	Notice of No Objection to Transfer Trustee John T. Mitchell
1/22/2010	ORDR	PHILLIPS	Order to Transfer Trustee (from Terry Jensen to Gooding-Jones) John T. Mitchell
3/11/2010	NOFH	PHILLIPS	Notice Of Hearing - April 26, 2010 John T. Mitchell
	HRSC	PHILLIPS	Hearing Scheduled (Motion 04/26/2010 10:30 AM) Motion to Dismiss Amended Complaint - Kootenai County John T. Mitchell
4/13/2010	FIOC	PHILLIPS	File Out Of County - (files 4 thru 7) - Judge Mitchell John T. Mitchell
4/27/2010	NOTC	PHILLIPS	Amended Notice of Hearing - July 20, 2010 John T. Mitchell
	CONT	PHILLIPS	Continued (Motion 07/20/2010 03:00 PM) Motion to Dismiss Amended Complaint - Kootenai County John T. Mitchell
4/28/2010	NOHG	MORELAND	Amended Notice Of Hearing (nothing different than what is on Hearing screen) John T. Mitchell
7/13/2010	NOFH	OPPELT	Second Amended Notice Of Hearing John T. Mitchell
	CONT	OPPELT	Hearing result for Motion held on 07/20/2010 03:00 PM: Continued Motion to Dismiss Amended Complaint - Kootenai County John T. Mitchell

Teresa R. Blankenship vs. Washington Trust Bank

Date	Code	User	Judge
7/13/2010	HRSC	OPPELT	Hearing Scheduled (Motion 08/31/2010 02:30 PM) Motion to Dismiss Amended Complaint - Kootenai County
8/31/2010	CTLG	OPPELT	Court Log- Kootenai County Courtlog
	DCHH	OPPELT	Hearing result for Motion held on 08/31/2010 02:30 PM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: More Than 100 Pages Motion to Dismiss Amended Complaint - Kootenai County
	ADVS	OPPELT	Hearing result for Motion held on 08/31/2010 02:30 PM: Case Taken Under Advisement Motion to Dismiss Amended Complaint - Kootenai County
9/28/2010	ORDR	PHILLIPS	Memorandum Decision and Order Granting Washington Trust Bank's Motion to Dismiss (re first Amended Complaint)
10/4/2010	FIRT	OPPELT	File Returned (Files 4-7)
10/7/2010	CINF	PHILLIPS	Clerk Information - per 9/28/10 order, case is not finished; no final judgment has been entered
11/3/2010	HRSC	PHILLIPS	Hearing Scheduled (Status Conference 11/10/2010 04:00 PM) Kootenai County
		PHILLIPS	Notice Of Hearing
	FIOC	PHILLIPS	File Out Of County - files 5,6,7
11/10/2010	MEMO	MORELAND	Amended Memorandum Decision & Order Granting Washington Trust Bank's Motion to Dismiss (12 pages)
	JDMT	MORELAND	Final Judgment Dismissint all Claims of Teresa A. Blankenship, William Michael Bowman, & Eric Bowman (4 pages)
	CDIS	MORELAND	Civil Disposition entered for: Blankenship, Teresa R., Plaintiff; Washington Trust Bank, Defendant; Bowman, William Michael, Other Party; Bowman, Eric L., Other Party. Filing date: 11/10/2010
	CTLG	PHILLIPS	Hearing result for Status Conference held on 11/10/2010 04:00 PM: Court Log- Kootenai County
	DCHH	PHILLIPS	Hearing result for Status Conference held on 11/10/2010 04:00 PM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: less than 100 Kootenai County
	STAT	PHILLIPS	STATUS CHANGED: closed
1/15/2010	FIRT	PHILLIPS	File Returned
	CINF	PHILLIPS	Clerk Information - the Sept 28 Memorandum Decision is not in the file

Teresa R. Blankenship vs. Washington Trust Bank

Date	Code	User		Judge
12/21/2010	BONT	BOWERS	Bond Posted for Transcript (Receipt 449040 Dated 12/21/2010 for 175.00) Voided	John T. Mitchell
	STAT	BOWERS	STATUS CHANGED: Closed pending clerk action	John T. Mitchell
	BNDC	BOWERS	Bond Posted - Cash (Receipt 449042 Dated 12/21/2010 for 100.00)	John T. Mitchell
		BOWERS	Filing: L4 - Appeal, Civil appeal or cross-appeal to Supreme Court Paid by: J.T. Diehl Receipt number: 0449043 Dated: 12/21/2010 Amount: \$101.00 (Check) For: Bowman, William Michael (other party)	John T. Mitchell
	BNVO	TURNBULL	Bond Voided	John T. Mitchell
	BONT	BOWERS	Bond Posted for Transcript (Receipt 449045 Dated 12/21/2010 for 175.50)-notified Reporter	Idaho Supreme Court
	APSC	KELSO	Appealed To The Supreme Court-by appellant atty T. Diehl	Idaho Supreme Court
	STAT	KELSO	STATUS CHANGED: Inactive	Idaho Supreme Court
12/22/2010	CHUG	KELSO	Change Assigned Judge	Idaho Supreme Court
1/4/2011	CCOA	KELSO	Clerk's Certificate Of Appeal	Idaho Supreme Court
	REQU	KELSO	Request for Additional Transcript and Record-from respondent's atty, Fulgham	Idaho Supreme Court
1/6/2011	BONT	PHILLIPS	Bond Posted for Transcript (Receipt 449802 Dated 1/7/2011 for 48.75)	Idaho Supreme Court
	BNDC	PHILLIPS	Bond Posted - Cash (Receipt 449806 Dated 1/7/2011 for 100.00)	John T. Mitchell
1/21/2011	NLT	PHILLIPS	Notice Of Lodging Transcript On Appeal	John T. Mitchell
	MISC	PHILLIPS	copy of Invoice from Court Reporter - no balance due	Idaho Supreme Court
	TRAN	PHILLIPS	Transcript Filed - Hearing Re: Petitioner's Objection to Motion for Summary Judgment (Feb 4, 2009) and Hearing Re: Motion for Summary Judgment (March 2, 2009) (also includes a disc of transcript)	Idaho Supreme Court
	SCDF	KELSO	Supreme Court Document Filed- Misc-"NOTICE OF APPEAL FILED"-Clerk's Record/Transcripts due to ISC 3/22/2011-Due to Atty's 2/15/11	Idaho Supreme Court
1/25/2011	CINF	KELSO	Clerk Information-Sent corrected CCOA to ISC	Idaho Supreme Court
2/3/2011	SCDF	KELSO	Supreme Court Document Filed- Misc-"Clerk's Certificate Filed"	Idaho Supreme Court
2/28/2011	MOTN	KELSO	District Court Clerk's Motion for Extention of Time to File Clerk's Record-spoke to Attys- no objection-sent to ISC	Idaho Supreme Court
3/7/2011	SCDF	KELSO	Supreme Court Document Filed- Misc-"Transmittal of Document"	Idaho Supreme Court

Case: CV-2007-0000572 Current Judge: Idaho Supreme Court
Teresa R. Blankenship vs. Washington Trust Bank

Teresa R. Blankenship vs. Washington Trust Bank

Date	Code	User		Judge
3/7/2011	ORDR	KELSO	Order Granting Motion for Extension of Time to File and Serve Clerk's Record-Due to ISC 6/6/2011 Due to Attys 5/2/2011	Idaho Supreme Court
	SCDF	KELSO	Supreme Court Document Filed- Misc-"Clerk's Record and Transcript Due Date Reset-6/6/2011Due to Attys 5/2/2011	Idaho Supreme Court

ORIGINAL

POWELL & REED, P.C.
Todd M. Reed, Attorney at Law
318 Pine Street
P.O. Box 1005
Sandpoint, Idaho 83864
Phone: (208) 263-3529
Fax: (208) 263-4438
ISB No. 4788

2007 APR -3 P 3:50

DISTRICT COURT
DEPUTY *gdr*

Attorney for Petitioner

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER
MAGISTRATE DIVISION

TERESA R. BLANKENSHIP:)	
	)	Case No : CV 2007- <u>00572</u>
Petitioner,)	
vs.	)	PETITION FOR REMOVAL
	)	OF TRUSTEE AND
WASHINGTON TRUST BANK,	)	PRELIMINARY INJUNCTION
as Trustee,)	
Respondent.)	
_____)	

I.

Petitioner is the Beneficiary of a Trust created by her mother, commonly known as The Althea Bowman Trust, hereto referred to as the Children's Trust.

II.

Petitioner is a resident of Sandpoint, Bonner County, Idaho and the Trust property, of a real property nature, is all located in Bonner County.

III.

Respondent has administered the Trust from Kootenai County, but has recently transferred it to Spokane County, Washington.

IV.

Respondent has operated the Trust in Idaho and therefore is assumed jurisdiction and submitted to personal jurisdiction in the State of Idaho. Therefore, under Idaho Law 15-7-104, jurisdiction is appropriate in Bonner County, Idaho.

V.

During this juncture of time the Trust has been operated in a manner in which the Petitioner believes the removal of the Trustee is appropriate under Idaho Law.

VI.

Trustee has participated in lending other beneficiaries outside of what is permitted in the Trust and has not operated the real property in a manner in which to maximize the return of profits to benefit the beneficiaries of this Trust.

VII.

Said actions of the Trustee are, in essence, waste and the Trustee should be removed to avoid continued waste and removal is appropriate pursuant to 15-7-308.

VIII.

Petitioner further alleges that Trustee has recently informed her that certain real properties owned by the Trust will be sold and the assets deposited within the Trust. Petitioner submits to the Court that this is not in the best interests of the beneficiaries of the Trust in that the real property would not gain the maximum amount of value at this time and in fact the Trust can't be administered with this real property remaining in the Trust. The sale of the real property, over the objections by the beneficiaries, would deprive the beneficiaries of future income and assets.

IX.

Petitioner hereby applies for a Preliminary Injunction to prohibit the sale of the real property until a determination can be made in a hearing or trial as to the future of the Trustee administering this Trust and the actual sale value of the real property.

X.

Petitioner reserves the right to submit additional issues by way of an Amended Petition upon further notice to the Court.

WHEREFORE, Petitioner prays for relief as follows:

1. That the Respondent be removed as the Trustee.
2. That a Permanent Injunction issue, prohibiting the sale of real property within the Trust.
3. For attorney fees and costs in bringing and defending this action.
4. For any other modification the Court deems proper.

DATED this 2 day of ~~March~~^{April}, 2007.



TODD M. REED
Attorney for Petitioner

VERIFICATION

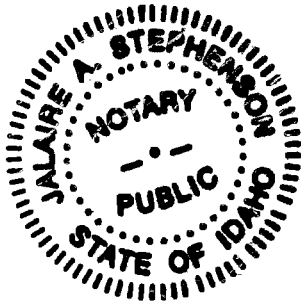
STATE OF IDAHO)
) ss.
County of Bonner)

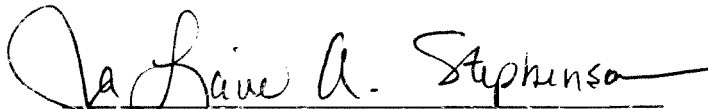
TERESA BLANKENSHIP, being first duly sworn upon her oath, deposes and states:

She is the Petitioner in the above-entitled matter; she has read and understands the contents of the foregoing Petition; and the statements and allegations contained therein are true and correct upon her personal knowledge, information, and belief.


TERESA BLANKENSHIP

SUBSCRIBED AND SWORN to before me this 30 day of March, 2007.




Notary Public for the State of Idaho
Residing at: Prest River
My Commission Expires: 3-8-10

STATE OF IDAHO
County of Bonner } ss
FILED 4-10-07
AT 11:43 O'CLOCK AM
CLERK, DISTRICT COURT
[Signature]
Deputy

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,	)	CASE NO. CV 2007-0000572
)	
Petitioner,)	
	)	DISQUALIFICATION
vs.)	
)	
WASHINGTON TRUST BANK,)	
as Trustee,)	
)	
Respondent.)	
_____)	

The undersigned District Judge disqualifies himself pursuant to Idaho Rule of Civil Procedure 40(d)(4), and:

IT IS HEREBY ORDERED that the above-entitled matter be referred to the Honorable John P. Luster, Administrative Judge, for further assignment.

DATED this 10 day of April, 2007.


Steve Verby
District Judge

DISQUALIFICATION - 1.

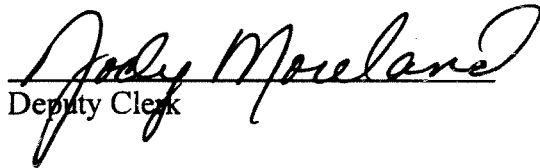
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed, postage prepaid or by interoffice mail, this 11 day of April, 2007, to the following:

Todd M. Reed
Powell & Reed, P.C.
P.O. Box 1005
Sandpoint, ID 83864

The Honorable John P. Luster
Administrative District Judge
P.O. Box 9000
Coeur d'Alene, ID 83816-9000

Via Facsimile No. (208) 446-1119


Deputy Clerk

DISQUALIFICATION - 2.

STATE OF IDAHO
COUNTY OF BONNER
IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER P 344

TERESA R. BLANKENSHIP,

Plaintiff,

vs.

WASHINGTON TRUST BANK,

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY
ORDER OF REASSIGNMENT

The Honorable **Steve Verby** having been disqualified pursuant to I.R.C.P.

40(d)(4) now, therefore,

IT IS HEREBY ORDERED that the above matter is reassigned to the Honorable
John T. Mitchell, District Judge, for the disposition of any pending and further
proceedings.

IT IS FURTHER ORDERED that the following alternate judges are hereby
assigned to preside in this case: Fred M. Gibler, John T. Mitchell, James R. Michaud, and
George R. Reinhardt, III.

DATED this 24 day of April, 2007.

John Patrick Luster

John Patrick Luster
Administrative District Judge

CERTIFICATE OF MAILING

I hereby certify that on this 24 day of April, 2007, a true and correct copy of the foregoing was
sent via facsimile, U.S. Mail, or interoffice mail to the following:

Bonner County Clerks
FAX 208-263-0896

Todd Reed
FAX 208-263-4438

Honorable John T. Mitchell
FAX 446-1138

CLERK OF THE DISTRICT COURT

By *[Signature]*
Secretary/Deputy Clerk

ORDER OF REASSIGNMENT: 1
CV

5. The undersigned certifies that the name of the Defendant and the address most likely to give Defendant notice of such default is the following:

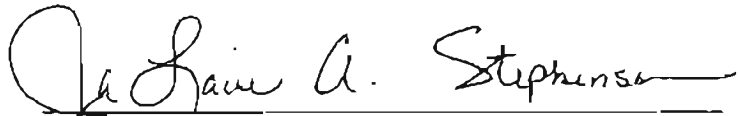
WASHINGTON TRUST BANK
Lukins & Annis, P. C.
Registered Agent
250 Northwest Boulevard, Suite 102
Coeur d'Alene, Idaho 83814

DATED this 23 day of July, 2007, at the City of Sandpoint, County of Bonner,
State of Idaho.


TODD M. REED

SUBSCRIBED AND SWORN TO before me this 23 day of July, 2007.




Notary Public for the State of Idaho
Residing at: Priest River
My Commission Expires: 03/08/10

STATE OF IDAHO
County of Bonner
FILED 7-30-07 ^{ss}
AT 11:00 O'CLOCK AM
CLERK, DISTRICT COURT

THOMAS M. CULBERTSON
ISB # 6748
PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS, P.S.
Ste 102
250 Northwest Blvd
Coeur d'Alene, ID 83814-2971
Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

Deputy

2007 JUL 20 A 11:04

CLERK DISTRICT COURT

Attorneys for Respondent
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER
MAGISTRATE DIVISION

TERESA R. BLANKENSHIP,

Petitioner,

NO. CV-2007-00572

v.

DEMAND FOR NOTICE

WASHINGTON TRUST BANK, as trustee,

FEE CATEGORY: Q(2)

Respondent.

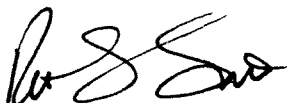
FEE: \$48.00

Pursuant to Idaho Code § 15-1-401, Idaho Code § 15-7-206, and Idaho Code § 15-8-206, Lukins & Annis, P.S., does hereby appear as counsel of record for respondent, Washington Trust Bank, trustee, and requests that all pleadings and notices in this matter be served on the undersigned.

DEMAND FOR NOTICE: 1

DATED this 24th day of July, 2007.

LUKINS & ANNIS, P.S.

By 
PETER J. SMITH IV
ISB #6997
Attorneys for Respondent
WASHINGTON TRUST BANK

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24th day of July, 2007, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
P. O. Box 1005

Sandpoint, ID 83864-1339

Fax Number: (208) 263-4438

Attorney for: Teresa R. Blankship, Petitioner

<input checked="" type="checkbox"/>	U.S. Mail
<input type="checkbox"/>	Hand Delivered
<input type="checkbox"/>	Overnight Mail
<input checked="" type="checkbox"/>	Telecopy (FAX)


PETER J. SMITH IV

DEMAND FOR NOTICE: 2

ORIGINAL

POWELL & REED, P.C.
Todd M. Reed, Attorney at Law
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P.O. Box 1005
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Phone: (208) 263-3529
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ISB No. 4788

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2007 OCT 11 P 3:27

MALE SCOTT
CLERK DISTRICT COURT

DEPUTY

Attorney for Petitioner


IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP:)	
	)	Case No.: CV 2007-00572
Petitioner,)	
vs.	)	MOTION FOR TRANSFER OF TRUST
	)	PENDING FINAL LITIGATION AND
WASHINGTON TRUST BANK,	)	NOTICE OF HEARING
as Trustee,)	
Respondent.)	

COMES NOW, the Petitioner and hereby moves this Court for transfer of the trust which is the subject matter of this litigation to Panhandle State Bank pending final litigation of this matter.

The basis for this motion is the Washington Trust Bank is not operating the Trust appropriately and refuses to provide information to the Petitioners.

DATED this 11 day of October, 2007.


TODD M. REED
Attorney for Petitioner

NOTICE OF HEARING

Notice is hereby given that the Petitioner, TERESA BLANKENSHIP, by and through her attorney of record, Todd M. Reed, will call on for hearing the foregoing Motion before the Honorable John Patrick Luster, Magistrate Judge of the above Court, **on the 6th day of December, 2007, at the hour of 3:00 p.m.**, or as soon thereafter as it may be heard at the Courthouse in Coeur d'Alene, Idaho, at which time Petitioner will provide oral argument and testimony.

DATED this 12 day of October, 2007.



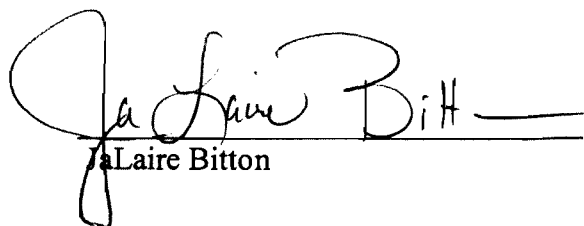
TODD M. REED
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on this 11 day of October, 2007, I served a true and correct copy of the foregoing on the individuals listed below, by the following method:

WASHINGTON TRUST BANK
Lukins & Annis, P. C.
Registered Agent
250 Northwest Boulevard, Suite 102
Coeur d'Alene, Idaho 83814

<input checked="" type="checkbox"/>	U.S. Mail, postage prepaid
<input type="checkbox"/>	Hand Delivered
<input type="checkbox"/>	Overnight mail
<input type="checkbox"/>	Faxed



JaLair Bitton

STATE OF IDAHO)
 County of BONNER) ss
 FILED 12-11-07
 AT _____ O'clock _____ M
 CLERK DISTRICT COURT
 Deputy [Signature]

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO IN AND FOR THE COUNTY OF BONNER

THERESA R. BLANKENSHIP,

Plaintiff,

vs.

WASHINGTON TRUST BANK,

Defendant.

Case No. **S CV 2007 572**

**SCHEDULING ORDER, NOTICE
 OF TRIAL SETTING AND INITIAL
 PRETRIAL ORDER**

Pursuant to **IRCP 16** IT IS HEREBY ORDERED that:

1. A **COURT** trial for **2** day(s) will commence at the BONNER County Courthouse at 9:00 a.m. on **JUNE 24, 2008**. If possible, cases set for the same day will be tried on a to follow basis.

2. The Court, at its discretion, will set the priority for each of the civil matters set for trial on the above date. Any party may request a priority setting by filing a request for Priority Setting, copy to the Court in chambers. The Court will attempt to give priority to cases where such Request for Priority Setting is filed in the order in which they are filed. Prior participation in mediation is a factor in granting priority. Notice is hereby given that all civil trial settings are subject to being preempted by the court's criminal calendar.

cc: *Cherie Lynne*
Bailiffs

In order to assist with the pretrial conference and trial of this matter **IT IS HEREBY FURTHER ORDERED** that:

1. a. **PRETRIAL EVENTS:** Before noticing a deposition, hearing or other pretrial event, a lawyer should consult and work with opposing counsel to accommodate the needs and reasonable requests of all witnesses and participating lawyers.

b. **MOTION PRACTICE:** Before setting a motion for a hearing, a lawyer should make a reasonable effort to resolve the issue without involving the Court. A lawyer who has no valid objection to an opponent's proposed motion should promptly make this position known to opposing counsel. After a hearing, a lawyer charged with preparing the proposed order should draft it promptly, striving to fairly and accurately articulate the Court's ruling. Before submitting the proposed order to the Court, the lawyer should provide a copy to opposing counsel who should promptly voice any objections. If the lawyers cannot resolve all objections, the drafting lawyer should promptly submit the proposed order to the Court, stating any unresolved objections.

c. **PRETRIAL MOTIONS:** Motions for summary judgment shall be timely filed so as to be heard **not later than ninety (90) days before trial**. The last day for filing all other pretrial motions shall be **twenty-one (21) days before trial**, except for *motions in limine* concerning witnesses and exhibits designated pursuant to paragraph Nos. 6 and 7 respectively of this Pretrial Order. Motions *in limine* concerning designated witnesses and exhibits shall be submitted in writing **at least seven (7) days before trial**. Motions *in limine* concerning any designated exhibit shall attach copies of the exhibit in issue. Motions *in limine* regarding designated witnesses shall attach copies of the discovery requests claimed to require the earlier disclosure and a representation by counsel regarding the absence of a prior response from the party to whom the discovery was

directed. The fact that a party which has submitted discovery to another party has not filed motions to compel in advance of trial does not, in and of itself, waive an objection by that party as to the timeliness of disclosure of witnesses and exhibits by the other party as required by this order.

2. **MOTIONS FOR SUMMARY JUDGMENT:** There shall be served and filed with each motion for summary judgment a separate concise statement, together with a reference to the record, of each of the material facts as to which the moving party contends there are no genuine issues of dispute. Any party opposing the motion shall, **not later than fourteen (14) days prior to the date of the hearing**, serve and file a separate concise statement, together with a reference to the record, setting forth all material facts as to which it is contended there exist genuine issues necessary to be ~~litigated~~. In determining any motion for summary judgment, the Court may assume that the facts as claimed by the moving party are admitted to exist without controversy, except and to the extent that such facts are asserted to be actually in good faith controverted by a statement filed in opposition to the motion.

3. **BRIEFS AND MEMORANDA:** In addition to any original brief or memorandum filed with the Clerk of the Court, a chambers' copy shall be provided to the Court. To the extent counsel rely on legal authorities not contained in the **Idaho Reports**, a copy of each case or authority cited shall be attached to the Court's copy of the brief or memorandum.

4. **DISCOVERY DISPUTES:** Unless otherwise ordered, the Court will not entertain any discovery motion, except those brought pursuant to **I.R.C.P. 26(c)** by a person who is not a party, unless counsel for the moving party files with the Court, at the time of filing the motion, a certification that the lawyer making the motion has in good faith conferred or

attempted to confer with the opposing lawyer to reach agreement without court action, pursuant to I.R.C.P. 37(a)(2). The motion shall not refer the Court to other documents in the file. For example, if the sufficiency of an answer to an interrogatory is in issue, the motion shall contain, verbatim, both the interrogatory and the allegedly insufficient answer, followed by each party's contentions, separately stated. In the absence of a showing of good cause as to why the discovery was not initiated so that timely responses were due **at least thirty (30) days before trial**, the Court will not hear motions to compel discovery **after twenty-one (21) days before trial**.

5. **EXPERT WITNESSES:** Not later than **one hundred eighty (180) days before trial**, plaintiff(s) shall disclose all experts to be called at trial. Not later than **one hundred fifty (150) days before trial**, defendant(s) shall disclose all experts to be called at trial

Such disclosure shall consist of at least the subject matter upon which the expert is expected to testify and the substance of any opinions to which the expert is expected to testify. The disclosure shall be contemporaneously filed with the Court.

Each party shall, **at least twenty-eight (28) days before trial**, file with the Court and serve all parties with a supplemental disclosure for each expert witness which shall identify the underlying facts and data upon which the opinions of each expert are based, to the extent such information is required to be disclosed pursuant to **I.R.C.P.**

26(b)(4)(A)(i). Absent good cause, an expert may not testify to matters not included in the disclosure. A party may comply with the disclosure by referencing expert witness depositions, without restating the deposition testimony in the disclosure report.

6. **DISCLOSURE OF WITNESSES:** Each party shall prepare and exchange between the parties and file with the Clerk **at least fourteen (14) days before trial** a list of witnesses with current addresses and telephone numbers, setting forth a brief

statement identifying the general subject matter about which the witness may be asked to testify (exclusive of impeachment witnesses). Each party shall provide opposing parties with a list of the party's witnesses and shall provide the Court with two copies of each list of witnesses.

7. **EXHIBITS AND EXHIBIT LISTS:** Using the attached form, each party shall prepare a list of exhibits it expects to offer. Exhibits should be listed in the order that the party anticipates they will be offered. Each party shall affix labels to their exhibits before trial. After the labels are marked and attached to the original exhibit, copies should be made. Plaintiff's exhibits shall be marked in numerical sequence. Defendant's exhibits shall be marked in alphabetical sequence. The civil action number of the case and the date of the trial shall also be placed on each of the exhibit labels. Exhibit lists and copies of exhibits shall be exchanged between parties and the exhibit list filed with the Clerk at **least fourteen (14) days before trial**. The original exhibits and a Judge's copy of the exhibits should be filed with the Clerk at the time of trial. Two copies of the exhibit list are to be filed with the Clerk. It is expected that each party will have a copy of all exhibits to be used at trial.

8. **JURY INSTRUCTIONS:** Jury instructions shall be prepared and exchanged between the parties and filed with the Clerk (with copies delivered to chambers) at **least seven (7) days before trial**. The Court has prepared stock instructions covering the following Idaho Jury Instructions: 1.00, 1.01, 1.03, 1.03.1, 1.04, 1.05, 1.09, 1.11, 1.13, 1.13.1, 1.15.2, 1.20.1, 1.22, 1.24.1 and 9.00. Copies of the Court's stock instructions may be obtained from the Court, and are available on the Kootenai County website (www.co.kootenai.id.us/dpeartment/districtcourt/forms.asp). The parties shall meet in good faith to agree on a statement of claims instruction which shall be submitted to the

Court with the other proposed instructions. Absent agreement, each party shall submit their own statement of claims instruction. All instructions shall be prepared in accordance with *I.R.C.P. 51(a)*. A party objecting to any requested jury instruction shall file at the time of trial **written objections to jury instructions**.

9. **TRIAL BRIEFS:** Trial briefs shall be prepared and exchanged between the parties and filed with the Clerk (with copies to chambers) **at least seven (7) days before trial**.

10. **PROPOSED FINDINGS AND CONCLUSIONS:** If the trial is to the Court, each party shall **at least seven (7) days prior to trial** file with the opposing parties and the Court (with copies to chambers) proposed Findings of Fact and Conclusions of Law supporting their position.

~~11.~~ **TRIAL PRACTICE:** At least a week before trial the lawyers shall meet and confer to discuss any stipulations that can be made at the beginning of trial and what exhibits can be admitted by stipulation. Following this meeting, the parties shall immediately alert the Court to any matters that need to be taken up **before** the time scheduled for trial to begin.

12. **TRIAL DAY:** After the first day of trial, all subsequent trial days will likely be on an **8:30 a.m. to 1:30 p.m.** schedule.

13. **MODIFICATION:** This Pretrial Order may be modified by stipulation of the parties upon entry of an order by the Court approving such stipulation. Any party may, upon motion and for good cause shown, seek leave of the Court modifying the terms of this order, upon such terms and conditions as the Court deems fit. Any party may request a pretrial conference pursuant to *I.R.C.P. 16* or mediation pursuant to *I.R.C.P. 16(k)*.

14. **REQUEST TO VACATE TRIAL SETTING:** Any party moving or stipulating to vacate a trial setting shall set forth the reasons for the request and include a representation by counsel that these reasons have been discussed with the client and that the client has no objection to vacating the trial date. For a continuance to be granted, the parties shall have already engaged in mediation, or should expect to engage in mediation at the time originally set for the trial or shortly thereafter.

Any vacation or continuance of the trial day shall not change or alter the time frames for the deadlines set forth herein, but the dates for such deadlines will change to the new dates as are established by the date of the new trial setting. Any party may, upon motion and for good cause shown, request different discovery and disclosure dates upon vacation or continuance of the trial date.

~~15. **MEDIATION:**~~ Lawyers should educate their clients early in the legal process about the various methods of resolving disputes without trial, including mediation, arbitration and neutral case evaluation. The parties are encouraged and expected to mediate as soon as possible. The Court will facilitate mediation if requested. The parties are ordered to report jointly to the Court in writing at least sixty (60) days prior to trial, setting forth when mediation occurred and the results of mediation. If no mediation has taken place, the joint report must state the reason the parties are not using mediation.

16. **SANCTIONS FOR NONCOMPLIANCE:** Failure to timely comply in all respects with the provisions of this order shall subject noncomplying parties to sanctions pursuant to *I.R.C.P. Rule 16(i)*, which may include:

(A) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting such party from introducing designated matters in evidence;

(B) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;

(C) In lieu of any of the foregoing orders or in addition thereto, an order treating as contempt of court the failure to comply;

(D) In lieu of or in addition to any other sanction, the judge shall require the party or the attorney representing such party or both to pay the reasonable expenses incurred because of any noncompliance with this rule, including attorney's fees, unless the judge finds that the noncompliance was substantially justified or that other circumstances make an award of expenses unjust.

IT IS FURTHER ORDERED that no party may rely upon any deadline set forth in this pretrial order as a reason for failing to timely respond to discovery or to timely supplement discovery responses pursuant to **I.R.C.P. 26(c)**.

Notice is hereby given, pursuant to Idaho Rule of Civil Procedure 40(d)(1)(G), that an alternate judge may be assigned to preside in this case. The following is a list of potential alternate judges: Hon. James R. Michaud, Hon. John P. Luster, Hon. Fred Gibler, Hon. Charles W. Hosack, Hon. Steve Verby or Hon. George R. Reinhardt, III or Hon. Lansing L. Haynes.

Unless a party has previously exercised their right to disqualification without cause under Rule 40(d)(1), each party shall have the right to file one (1) motion for disqualification without cause as to any alternate judge not later than ten (10) days after service of this notice.

IT IS FURTHER ORDERED that any party who brings in an additional party shall serve a copy of this "Scheduling Order, Notice of Trial Setting" upon that added party at the time the pleading adding the party is served on the added party, and proof of such service shall then be given to the Court by the party adding an additional party.

DATED this 11 day of December, 2007.

BY ORDER OF JOHN T. MITCHELL, District Judge


Jeanne Clausen, Deputy Clerk/Secretary

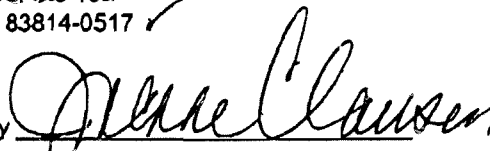
CERTIFICATE OF MAILING

I hereby certify that true copies of the foregoing have been mailed, postage prepaid or sent by interoffice mail, this 11 day of December, 2007, to: If applicable, BONNER County Jury Commissioner, Judge Gibler Judge Hosack, Trial Court Administrator.

Todd Reed
PO Box 1005
Sandpoint, ID 83864-1339 ✓

Peter J. Smith
250 Northwest Blvd, Ste 102
Coeur d'Alene ID 83814-0517 ✓

Bonner Co. Ct House

By 
Jeanne Clausen, Deputy Clerk/Secretary

THOMAS M. CULBERTSON
ISB # 6748
PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS, P.S.
Ste 102
250 Northwest Blvd
Coeur d'Alene, ID 83814-2971
Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

Attorneys for Respondent
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

v.

WASHINGTON TRUST BANK, as trustee,

Respondent.

NO. CV-2007-00572


MOTION TO DISMISS

Respondent WASHINGTON TRUST BANK, trustee, hereby moves to dismiss Petitioner's Petition for Removal of Trustee and Preliminary Injunction ("Petition") pursuant to Idaho Rule of Civil Procedure 12(b)(1) on the grounds that this Court lacks jurisdiction over the subject matter of the Petition. This Motion is supported by the Memorandum and Affidavit filed herewith in Support of this Motion.

DATED this 14th day of January, 2008.

LUKINS & ANNIS, P.S.

By


PETER J. SMITH IV
ISB #6997
Attorneys for Respondent
WASHINGTON TRUST BANK

MOTION TO DISMISS

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- 1 -

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of January, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
P. O. Box 1005
Sandpoint, ID 83864-1339
Fax Number: (208) 263-4438
Attorney for: Teresa R. Blankship, Petitioner

<input checked="" type="checkbox"/>	U.S. Mail
<input type="checkbox"/>	Hand Delivered
<input type="checkbox"/>	Overnight Mail
<input checked="" type="checkbox"/>	Telecopy (FAX)



PETER J. SMITH IV

THOMAS M. CULBERTSON
ISB # 6748
PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS, P.S.
Ste 102
250 Northwest Blvd
Coeur d'Alene, ID 83814-2971
Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

Attorneys for Respondent
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

v.

WASHINGTON TRUST BANK, as trustee,

Respondent.

NO. CV-2007-00572

MOTION FOR PROTECTIVE ORDER

Respondent WASHINGTON TRUST BANK, trustee, hereby moves the Court pursuant to Idaho Rule of Civil Procedure 26(c) for a Protective Order staying the Depositions of Diane Albrethsen, Ned Brandenberger, and Susan J. Kuzma (collectively, "Deponents"), scheduled for January 22, 2008, pending a decision on Respondent's Motion to Dismiss Petitioner's Petition for Removal of Trustee and Preliminary Injunction for lack of subject matter jurisdiction. This Motion is made on the grounds that such an order is necessary to protect Respondent and the Deponents from the undue burden and/or expense of engaging in such depositions prior to the resolution of Respondent's Motion to Dismiss. This Motion is supported by the Memorandum filed herewith in Support of this Motion.


MOTION FOR PROTECTIVE ORDER

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- 1 -

DATED this 14th day of January, 2008.

LUKINS & ANNIS, P.S.


By 
PETER J. SMITH IV
ISB #6997
Attorneys for Respondent
WASHINGTON TRUST BANK

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of January, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
P. O. Box 1005
Sandpoint, ID 83864-1339
Fax Number: (208) 263-4438
Attorney for: Teresa R. Blankship, Petitioner

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy (FAX)


PETER J. SMITH IV

THOMAS M. CULBERTSON
ISB # 6748
PETER J. SMITH IV
ISB #6997
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250 Northwest Blvd
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Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

Attorneys for Respondent
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

v.

WASHINGTON TRUST BANK, as trustee,

Respondent.

NO. CV-2007-00572

MEMORANDUM IN SUPPORT OF
MOTION FOR PROTECTIVE ORDER

Respondent WASHINGTON TRUST BANK files this Memorandum in Support of
Respondent's Motion for Protective Order.

I. FACTS

1. On April 3, 2007, Petitioner filed its Petition for Removal of Trustee and Preliminary Injunction ("Petition").
2. Respondent filed its Demand for Notice on July 24, 2007.
3. In its Scheduling Order, Notice of Trial Setting and Initial Pretrial Order, entered on December 11, 2007, this Court scheduled this matter for a two-day trial beginning on June 24, 2008.
4. On January 7, 2008, Petitioner filed three Notices of Deposition Duces Tecum for depositions to be conducted on January 22, 2008 with respect to deponent Susan J. Kuzma at

MEMORANDUM IN SUPPORT OF MOTION
FOR PROTECTIVE ORDER

- 1 -

9:30 a.m., Diane Albrethsen at 1:30 p.m., and Ned Brandenberger at 3:30 p.m. (collectively, "Deponents").

5. Respondent filed its Motion to Dismiss Petitioner's Petition for lack of subject matter jurisdiction, Memorandum in Support, and Affidavit in Support on January 11, 2007.

II. ARGUMENT

Respondent respectfully requests that this Court enter a Protective Order staying the depositions of Deponents scheduled for January 22, 2008 pending a decision by this Court with respect to Respondents Motion to Dismiss Petitioner's Petition for lack of subject matter jurisdiction. Respondent's request is made upon the grounds that such an order will prevent the unnecessary hardship, burden, and expense associated with engaging in the three depositions prior to the resolution of Respondent's Motion to Dismiss.

Idaho Rule of Civil Procedure 26(c), which governs protective orders, provides for the issuance of a protective order where justice so requires to protect a party or person from undue burden or expense:

Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the court in which the action is pending or alternatively, on matter relating to a deposition, the court in the district where the deposition is to be taken may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: (1) that the discovery not be had; (2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place

"A district court's decision to grant a protective order is discretionary and will not be overturned absent an abuse of that discretion." *Selkirk Seed Co. v. Forney*, 134 Idaho 98, 104, 996 P.2d 798, 804 (2000). Although Idaho courts have not addressed the issue, other jurisdictions have upheld a court's decision to stay discovery pending the resolution of a motion to dismiss. *See e.g., Transunion Corp. v. PepsiCo, Inc.*, 811 F.2d 127, 130 (2nd Cir. 1987) (holding that the lower

court did not abuse its discretion when it stayed discovery pending the motion to dismiss); *Followell v. Mills*, 2006 WL 889395 *5 (W.D. Tenn. 2006) (bankruptcy court did not abuse its discretion in granting Mills' motion for a protective order pending the resolution of motion to dismiss).

In this case, Respondent has filed a Motion to Dismiss, in which Respondent has set forth argument that this court lacks jurisdiction over the subject matter of Petitioner's Petition. Respondent's Motion to Dismiss is a potentially dispositive motion. As a result, the taking of the three above-mentioned depositions prior to a determination with respect to Respondent's Motion to Dismiss would create unnecessary hardship and expense on the parties. In the event that Respondent's Motion to Dismiss is granted, then any discovery issues are moot.

Furthermore, because this matter is not set for trial until June 24, 2008, an Order by this Court staying the depositions of the Deponents pending the resolution of Respondent's Motion to Dismiss will not be prejudicial to either parties' ability to conduct discovery and adequately prepare for trial. In the event that Respondent's Motion to Dismiss is denied, then the protective order will be dissolved and discovery will no longer be stayed. Whether the Motion to Dismiss is granted or denied, neither party will be prejudiced by a Protective Order staying the depositions of Deponents until a decision with regard to Respondent's Motion to Dismiss.

III. CONCLUSION

Respondent respectfully requests that this Court grant its Motion for Protective Order.

DATED this 14th day of January, 2008.

LUKINS & ANNIS, P.S.

By 

PETER J. SMITH IV

ISB #6997

Attorneys for Respondent

WASHINGTON TRUST BANK

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of January, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
P. O. Box 1005
Sandpoint, ID 83864-1339
Fax Number: (208) 263-4438
Attorney for: Tereasa R. Blankship, Petitioner

<input checked="" type="checkbox"/>	U.S. Mail
<input type="checkbox"/>	Hand Delivered
<input type="checkbox"/>	Overnight Mail
<input checked="" type="checkbox"/>	Telecopy (FAX)


PETER J. SMITH IV

Westlaw.

Not Reported in F.Supp.2d

Page 1

Not Reported in F.Supp.2d, 2006 WL 889395 (W.D.Tenn.)
(Cite as: Not Reported in F.Supp.2d)

C

Followell v. Mills
W.D.Tenn., 2006.

Only the Westlaw citation is currently available.
United States District Court, W.D. Tennessee,
Western Division.

Cheryl FOLLOWELL, as personal representative of
the estate of Betty Jean Gurley (deceased),
Appellant,

v.

George E. MILLS, Jr., Appellee.
No. 05-2423.

March 31, 2006.

Anthony Charles Pietrangelo, John J. Cook,
Pietrangelo Cook, Memphis, for Appellant.
James E. Foster, Virginia B. Townes, Akerman
Senterfitt, Orlando, FL, for Appellee.

ORDER AFFIRMING IN PART, REVERSING IN
PART, AND VACATING IN PART DECISION
OF THE BANKRUPTCY COURT

MAYS, J.

*1 This appeal arises out of an adversary proceeding filed by Appellant Cheryl Followell ("Followell") in the United States Bankruptcy Court for the Western District of Tennessee. The suit was filed to recover twenty-two million dollars paid to Appellant George E. Mills, Jr., ("Mills") as a claimant in the chapter 11 bankruptcy case of Betty Jean Gurley ("Gurley"). Followell appeals two orders of the bankruptcy court, the October 14, 2004, order granting Mills' motion for a protective order and the April 4, 2005, order granting Mills' motion to dismiss.

This appeal was filed on June 1, 2005. Followell filed her brief on June 24, 2005. Mills filed his answer on July 12, 2005. Followell's reply brief was filed on July 25, 2005. For the following

reasons, the decision of the bankruptcy court is **AFFIRMED** in part, **REVERSED** in part, and **VACATED** in part.

I. Background

Gurley and her husband, William Gurley, were partners in several businesses. (Appellant's Br. 14.) On July 26, 1995, William Gurley filed a chapter 7 bankruptcy petition in the United States Bankruptcy Court for the Middle District of Florida ("Florida bankruptcy court"). (Id. at 15.) Mills was appointed trustee of William Gurley's bankruptcy estate. (Id. at 16.) In that capacity, Mills filed an adversary proceeding against Gurley on April 25, 1996, alleging that William Gurley had fraudulently transferred assets to Gurley or that the transfer of assets had not been completed. (Id.) The parties mediated the issue and signed a settlement agreement that would have resolved all of the claims against Gurley for one million dollars. (Id.)

The Florida bankruptcy court, however, denied the motion for approval of the settlement, filed by Mills. (Id. at 17, 23.) Followell alleges that the Florida bankruptcy court did not approve the settlement because Mills and his attorney, James Foster ("Foster"), made fraudulent claims to the court about the value of the transferred assets "to make it appear to [the Florida bankruptcy court] that the \$1 million settlement was no longer reasonable." (Id. at 19.) Followell further alleges that Gurley was not aware that Mills and Foster had made such representations to the court because they insisted that the Gurleys not attend the settlement hearing. (Id.) The Gurleys allegedly consented to this request because they believed that Mills and Foster would argue in favor of the settlement. (Id.)

Mills and Foster assert that the Gurleys did not disclose during the course of the settlement negotiations all of the transferred assets.

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Page 2

Not Reported in F.Supp.2d, 2006 WL 889395 (W.D.Tenn.)
(Cite as: Not Reported in F.Supp.2d)

Specifically at issue are two Nevada mining claims that William Gurley transferred to Gurley within the limitations period for transfers under the Bankruptcy Code. (Compl. Ex. B at 14.) Those assets were discovered between the final settlement negotiations and Mills' filing of the motion for approval of the settlement. Before Mills filed the motion, Foster asked William Gurley's attorney to investigate the assets. (Id. Ex. B at 14-15.) Based on the findings of William Gurley's attorney, Mills concluded that the assets had negligible value. (Id. Ex. B at 15.)

*2 Two expert valuations of the Nevada mining claims, however, caused Mills to doubt his initial conclusions. (Id. Ex. G at 3:8-20.) After twice asking for additional time to research the undisclosed assets, Mills withdrew on the record his support for the motion for approval of the settlement. (Id. Ex. G at 5:14-17.) Attorneys representing both William and Betty Jean Gurley were present at that hearing and did not object to Mills' withdrawal of his support for the motion. (Id. Ex. G.)

After the settlement had been rejected, the case proceeded to trial. On August 15, 1997, the Florida bankruptcy court found that William Gurley exercised control and dominance over all assets transferred to his wife, making them her assets in name only. (Compl. Ex. J at 26.) The court also found that the transfer of certain assets was ineffective. (Id. Ex. J at 25.)

In response to Mills' attempt to seize control of Gurley's assets under the authority of the Florida bankruptcy court decision, Gurley filed a voluntary bankruptcy petition under chapter 11 on October 20, 1997, in the United States Bankruptcy Court for the Western District of Tennessee. (Appellant's Br. 24.) On November 3, 1997, in his capacity as trustee of William Gurley's bankruptcy estate, Mills filed a proof of claim, which the bankruptcy court allowed in the amount of \$22,053,956. (Compl. ¶ 5.) That amount was paid in full, and the case was closed on February 11, 2000. (Appellant's Br. 25.)

Gurley died on May 2, 2003, and her daughter, Followell, was appointed personal representative of

Gurley's probate estate. (Compl. ¶ 1.) Gurley's bankruptcy case was reopened on February 6, 2004. On May 6, 2004, Followell filed this adversary proceeding, seeking to recover the twenty-two million dollars paid to William Gurley's bankruptcy estate. Followell's complaint alleges that she "recently discovered that the 1997 judgment [of the Florida bankruptcy court] was procured by fraud perpetrated by the Trustee and Foster" by "us[ing] their improper influence over [the court] to fabricate evidence and to corrupt the very integrity of the judicial process." (Id. ¶ 8.) She, therefore, asks that the judgment of the Florida bankruptcy court be set aside. (Id. ¶ 9.) The complaint alleges four counts: fraud upon the court, violation of duty of candor, abuse of process, and declaratory judgment and enforcement of settlement agreement.

Mills filed a motion to dismiss or strike the complaint on June 28, 2004. Followell filed an objection to the motion on July 22, 2004, and a hearing on the motion was held before the bankruptcy court on July 29, 2004. Mills filed a motion for a protective order to stay discovery on August 11, 2004, and on October 14, 2004, after the motion had been fully briefed and a hearing held, the bankruptcy court granted Mills' motion for a protective order. The order stated that it would remain in force if the court granted Mills' pending motion to dismiss, but would be dissolved if the motion to dismiss were denied. (Protective Order 2.)

*3 On April 4, 2004, the bankruptcy court granted Mills' motion to dismiss without prejudice. The bankruptcy court found that the complaint failed to state a claim for fraud upon it, rather the allegations of fraud upon the court all depended on the allegations of fraud against the Florida bankruptcy court. (Dismiss Order at 5-6.) Therefore, the bankruptcy court held that the Florida bankruptcy court alone had jurisdiction to hear Followell's allegations of fraud upon the court. (Id.) The complaint was dismissed without prejudice to refile if Followell should successfully vacate the judgment of the Florida bankruptcy court. (Id. at 6.) The bankruptcy court entered judgment on April 5, 2005, and Followell filed a notice of appeal on April 12, 2005.

Not Reported in F.Supp.2d

Page 3

Not Reported in F.Supp.2d, 2006 WL 889395 (W.D.Tenn.)
(Cite as: Not Reported in F.Supp.2d)

II. Jurisdiction

This court has jurisdiction to hear appeals from final judgments and orders of the bankruptcy courts under 28 U.S.C. § 158(a).

III. Standard of Review

"On appeal from a bankruptcy court, a district court applies the clearly erroneous standard of review to findings of fact, and reviews questions of law de novo." *In re Gardner*, 360 F.3d 511, 557 (6th Cir.2004). Jurisdictional questions are reviewed de novo. *In re Brown*, 248 F.3d 484, 486 (6th Cir.2001). A court considering a motion to dismiss for lack of subject matter jurisdiction must take all facts alleged in the complaint to be true. *Scheuer v. Rhodes*, 416 U.S. 232, 236, 94 S.Ct. 1683, 40 L.Ed.2d 90 (1974).

Dismissal for failure to state a claim is also reviewed de novo. *Miller v. Champion Enters., Inc.*, 346 F.3d 660, 671 (6th Cir.2003). "Under the liberal notice pleading rules, a complaint need only put a party on notice of the claim being asserted against it to satisfy the federal rule requirement of stating a claim upon which relief can be granted." *Memphis, Tenn. Area Local, Am. Postal Workers' Union, AFL-CIO v. City of Memphis*, 361 F.3d 898, 902 (6th Cir.2004). When considering a motion to dismiss for failure to state a claim, the court regards all factual allegations in the complaint as true. *Scheid v. Fanny Farmer Candy Shops, Inc.*, 859 F.2d 434, 436 (6th Cir.1988). Further, the court must construe the complaint in the light most favorable to the plaintiffs." *Memphis, Tenn. Area Local, Am. Postal Workers' Union*, 361 F.3d at 902. If the plaintiff can prove no set of facts that would entitle him to relief based on a viable legal theory, the claim will be dismissed. *Scheid*, 859 F.2d at 437.

"The Federal Rules of Civil Procedure do not require a claimant to set out in detail all the facts upon which he bases his claim." *Conley v. Gibson*, 355 U.S. 41, 47, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957). "To avoid dismissal under Rule 12(b)(6), a complaint must contain either direct or inferential

allegations with respect to all material elements of the claim." *Wittstock v. Mark A. Van Sile, Inc.*, 330 F.3d 899, 902 (6th Cir.2003).

Decisions as to discovery are reviewed for abuse of discretion on appeal. *Hahn v. Star Bank*, 190 F.3d 708, 719 (6th Cir.1999).

IV. Analysis

A. Fraud Upon Florida Bankruptcy Court

*4 "[A] bankruptcy court has full power to inquire into the validity of any claim asserted against the estate and to disallow it if it is ascertained to be without lawful existence. And the mere fact that a claim has been reduced to judgment does not prevent such an inquiry." *Pepper v. Litton*, 308 U.S. 295, 305, 60 S.Ct. 238, 84 L.Ed. 281 (1939) (internal citation omitted). The Supreme Court has held that, because even creditors with a judgment must submit a proof of claim, the bankruptcy court may disallow or subordinate a claim based on a finding "that the purported judgment is not a judgment because of want of jurisdiction of the court which rendered it over the persons of the parties or the subject matter of the suit, or because it was procured by fraud of a party." *Heiser v. Woodruff*, 327 U.S. 726, 736, 66 S.Ct. 853, 90 L.Ed. 970 (1946). The bankruptcy court may not, however, reexamine issues already raised before and determined by the court that handed down the judgment. *Id.* at 736-37.

Mills asserts that, although a bankruptcy court may look behind judgments allegedly procured by intrinsic or extrinsic fraud, it may not look behind a judgment allegedly procured through fraud upon the court because "the proper forum in which to assert that a party has perpetrated a 'fraud on the court' is the court which allegedly was a victim of that fraud." *Weisman v. Charles E. Smith Mgmt., Inc.*, 829 F.2d 511, 513 (4th Cir.1987). Whether a judgment "procured by fraud of a party" includes judgments procured by fraud upon the court has rarely been

Not Reported in F.Supp.2d

Page 4

Not Reported in F.Supp.2d, 2006 WL 889395 (W.D.Tenn.)
(Cite as: Not Reported in F.Supp.2d)

addressed. In *Browning v. Navarro*, 826 F.2d 335 (5th Cir.1997), the Fifth Circuit found that "judgment procured by fraud of a party" under *Heiser* included "the corrupt abuse of the judicial process," or fraud upon the court. *Id.* at 345. The court noted, in reaching its conclusion, that if a bankruptcy court may set aside a judgment based on lesser types of fraud, it should have the power to set aside a judgment based on more egregious fraud. *Id.* at 344.

The Tenth and Fourth Circuits have also addressed this issue in dicta. In *In re Laing*, 945 F.2d 354 (10th Cir.1991), the court notes that the decision in *Browning* is "consistent with [its] view .. that 'fraud in the procurement of a judgment' sufficient to warrant relief therefrom is properly identified with 'fraud on the court.'" *Id.* at 358. In *In re Genesys Data Technologies, Inc.*, 204 F.3d 124 (4th Cir.2000), the court accepts without discussion the view of the district court "that fraud upon the [state] court could provide grounds to refuse to enforce the default judgment." *Id.* at 130. In both cases, however, the courts found that the fraud alleged did not rise to the level of fraud upon the court. *Id.* at 132; *Laing*, 945 F.2d at 358.

Because Mills' proof of claim before the bankruptcy court was based on the Florida bankruptcy court judgment, "the court may look behind the judgment to determine the essential nature of the liability for purposes of proof and allowance." *Pepper*, 308 U.S. at 305-06. This is true in the case of fraud upon the court, as well as lesser types of fraud. Therefore, the bankruptcy court's finding that it does not have jurisdiction to hear Followell's claims of fraud upon the Florida bankruptcy court is reversed.

*5 The bankruptcy court has not determined whether Followell has sufficiently stated a claim for fraud upon the court and has not addressed other assertions made by Mills in his motion to dismiss or strike. This court will not rule on issues not addressed by the bankruptcy court.

B. Fraud Upon Tennessee Bankruptcy Court

The bankruptcy court correctly found that the complaint contains no allegations of fraud upon it that were independent of the allegations of fraud upon the Florida bankruptcy court, which would generally prevent a federal court from addressing claims for fraud upon its own court. See *Anderson v. Roszkowski*, 681 F.Supp. 1284, 1292 (N.D.Ill.1988) (federal judgments could not be overturned because of allegations of fraud on the court, where overturning federal judgments would first require overturning state judgments, which the court had no authority to review). Because, however, the court has found that the bankruptcy court has the power to look behind a judgment to determine whether to disallow or subordinate a claim, the bankruptcy court may address Followell's claims of fraud upon the Florida bankruptcy court and may also address the claims of fraud upon it that arise out of the Florida bankruptcy court allegations.

Therefore, the bankruptcy court's finding that Followell's complaint does not state a claim for fraud against it is vacated. The court makes no finding, however, about whether Followell's allegations are sufficient to state a claim for fraud upon the Tennessee bankruptcy court because that court's previous finding was based on its erroneous finding that it lacked jurisdiction to examine the allegations of fraud upon the Florida bankruptcy court.

C. Protective Order

The bankruptcy court did not abuse its discretion in granting Mills' motion for a protective order. The protective order stays discovery only until Mills' motion to dismiss is decided. If the motion is granted, the issue of discovery is moot. If the motion is denied, the protective order will be dissolved. Although Followell asserts that the bankruptcy court abused its discretion by allowing one-sided discovery and that Mills has been able to use information obtained through discovery against her, a motion to dismiss is decided by examining the complaint, making additional evidence obtained through discovery irrelevant. Therefore, Followell has not suffered any undue prejudice by being

Not Reported in F.Supp.2d

Page 5

Not Reported in F.Supp.2d, 2006 WL 889395 (W.D.Tenn.)
(Cite as: Not Reported in F.Supp.2d)

forbidden to conduct discovery until the motion to dismiss is decided. The decision of the bankruptcy court as to discovery is affirmed.

V. Conclusion

The bankruptcy court's finding that it does not have jurisdiction to address Followell's allegations of fraud against the Florida bankruptcy court is REVERSED.

The bankruptcy court's finding that Followell's complaint does not state a claim for fraud against it is VACATED.

The bankruptcy court's order granting Mills' motion for a protective order to stay discovery is AFFIRMED.

*6 So ordered.

W.D.Tenn.,2006.
Followell v. Mills
Not Reported in F.Supp.2d, 2006 WL 889395
(W.D.Tenn.)

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811 F.2d 127

Page 1

811 F.2d 127, RICO Bus.Disp.Guide 6538
(Cite as: 811 F.2d 127)

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Transunion Corp. v. PepsiCo, Inc.
C.A.2 (N.Y.), 1987.

United States Court of Appeals, Second Circuit.
TRANUNION CORPORATION and Union
Industries, Inc., Appellants,
v.
PEPSICO, INC., Appellee.
No. 561, Docket 86-7805.

Argued Dec. 9, 1986.
Decided Feb. 5, 1987.

Philippine corporation brought suit against United States corporation for breach of contract, fraud, and RICO violations, and United States corporation moved to dismiss on grounds of forum non conveniens. The United States District Court for the Southern District of New York, Edward Weinfeld, J., 640 F.Supp. 1211, conditionally granted motion, and Philippine corporation appealed. The Court of Appeals held that: (1) dismissal of action on forum non conveniens grounds was appropriate as Philippine corporation had very minimal contacts with United States; (2) although Philippine corporation would not be able to claim RICO violations in Philippine court, it would still be able to maintain fraud actions underlying RICO counts; (3) fact that Philippine corporation could not obtain treble damages if successful in demonstrating fraud did not require United States court to hear case; and (4) trial judge did not abuse his discretion in granting protective order to prevent further discovery prior to his decision on motion to dismiss.

Affirmed.

West Headnotes

[1] Federal Courts 170B ⇨45

170B Federal Courts

170B1 Jurisdiction and Powers in General

170B1(B) Right to Decline Jurisdiction;
Abstention Doctrine

170Bk45 k. Forum Non Conveniens. Most
Cited Cases

Dismissal of Philippine corporation's action against United States corporation on forum non conveniens grounds was proper where Philippine corporation had minimal contacts with United States, contracts at issue related exclusively to the Philippines, most witnesses and documents were in the Philippines, many witnesses speak Philippine dialect as primary language, and there was no showing that political unrest in the Philippines would have adverse effect upon judicial system there.

[2] Federal Courts 170B ⇨45

170B Federal Courts

170B1 Jurisdiction and Powers in General

170B1(B) Right to Decline Jurisdiction;
Abstention Doctrine

170Bk45 k. Forum Non Conveniens. Most
Cited Cases

Inability of Philippine corporation to bring RICO claim in Philippine court, if United States action were dismissed on grounds of forum non conveniens, was not dispositive, where Philippine corporation could assert three underlying fraud claims upon which their RICO claim was based, though they would not be entitled to triple damages, and where, RICO cause of action, as alleged, appeared to be legally deficient. 18 U.S.C.A. §§ 1961-1968.

[3] Federal Courts 170B ⇨45

170B Federal Courts

170B1 Jurisdiction and Powers in General

170B1(B) Right to Decline Jurisdiction;
Abstention Doctrine

170Bk45 k. Forum Non Conveniens. Most
Cited Cases

Reference in RICO statute to "present" antitrust

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811 F.2d 127

Page 2

811 F.2d 127, RICO Bus.Disp.Guidc 6538
(Cite as: 811 F.2d 127)

legislation indicated that earlier antitrust interpretation, which provided that such actions could not be dismissed on forum non conveniens grounds, was effectively overruled, and thus at time RICO was enacted, forum non conveniens doctrine applied both to antitrust suits and RICO actions. Clayton Act, § 12, 15 U.S.C.A. § 22; 28 U.S.C.A. § 1404(a); 18 U.S.C.A. § 1965(a).

[4] 1271.5

170A Federal Civil Procedure
170AX Depositions and Discovery
170AX(A) In General
170Ak1271.5 k. Protective Orders. Most
Cited Cases
(Formerly 170Ak1271)

Federal Courts 170B 45

170B Federal Courts
170BI Jurisdiction and Powers in General
170BI(B) Right to Decline Jurisdiction;
Abstention Doctrine
170Bk45 k. Forum Non Conveniens. Most
Cited Cases
Trial judge did not abuse his discretion in granting protective order to prevent further discovery prior to its decision on United States corporation's motion to dismiss; motions for forum non conveniens may be decided on basis of affidavits.

*128 Richard G. Menaker, Menaker & Herrmann, New York City (Robert F. Herrmann, of counsel), for appellants.
Ronald S. Rolfe, Cravath, Swaine & Moore, New York City, (Louis M. Solomon, James J. Buchal, of counsel), for appellee.

Before OAKES, CARDAMONE and WINTER,
Circuit Judges.

PER CURIAM:

Transunion Corporation ("Transunion") and its subsidiary Union Industries, Inc. ("UII"), Philippines corporations, appeal the judgment and order of the United States District Court for the Southern District of New York, Edward Weinfeld,

Judge, dismissing their action against PepsiCo, Inc. ("PepsiCo"), for fraudulently inducing them to enter into a Compromise Agreement to settle an earlier dispute, for damages for breach of this and of an earlier agreement, and for treble damages for civil RICO violations under 18 U.S.C. §§ 1961-1968 (1982). Judge Weinfeld's opinion is reported as *Transunion Corp. v. PepsiCo, Inc.*, 640 F.Supp. 1211 (S.D.N.Y.1986). Appellants argue that Judge Weinfeld abused his discretion when he granted PepsiCo's motion to dismiss the complaint on the ground of forum non conveniens. They argue too that he abused his discretion when he stayed discovery pending determination of the motion to dismiss. We affirm, substantially on Judge Weinfeld's opinion.

Transunion had a contract (the "1981 Supply Agreement") to supply Pepsi-Cola Bottling Company of the Philippines ("PCBCP") with glass bottles. In 1983, Transunion brought an action in the Philippines against PCBCP and PepsiCo for breach of this contract. Following negotiations in the Philippines and in New York, this action was settled by a 1983 Compromise Agreement that required, inter alia, PepsiCo to buy bottles from Transunion through 1986 and Transunion to meet certain quality standards. In March 1985, PepsiCo sold its Philippines bottling operations to a third party. On December 5, 1985, Transunion gave notice of its cancellation of the 1983 Compromise Agreement on the ground that PepsiCo had breached it by this sale. On December 17, 1985, however, PepsiCo filed suit in the Philippines alleging, inter alia, that appellants had breached the Agreement's quality standards. The Philippine court granted PepsiCo a writ of preliminary attachment on properties of Transunion and its president, Carlos Ty.

On December 27, appellants filed this suit in the Southern District of New York. Dismissal on forum non conveniens grounds was conditioned on PepsiCo's (1) waiver of any statute of limitations defenses it might have in the Philippines with respect to the claims asserted in the Southern District of New York and (2) agreement to make its employees available in the Philippines for deposition or trial.

811 F.2d 127

Page 3

811 F.2d 127, RICO Bus.Disp.Guide 6538
(Cite as: 811 F.2d 127)

The appropriate standard of review of a *forum non conveniens* determination is whether the trial court abused its discretion in weighing the established public and *129 private interest factors articulated by the Supreme Court. *Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 257, 102 S.Ct. 252, 266, 70 L.Ed.2d 419 (1981); *Gulf Oil Corp. v. Gilbert*, 330 U.S. 501, 509, 67 S.Ct. 839, 843, 91 L.Ed. 1055 (1947); see also *Piper Aircraft*, 454 U.S. at 241 n. 6, 102 S.Ct. at 258 n. 6 (factors). The judge's opinion here is typically careful and complete, and his decision a reasonable one. The judge clearly stated that "a plaintiff's choice of forum should rarely be disturbed and the burden is on the defendant to establish that the action should be dismissed on the ground of *forum non conveniens*." 640 F.Supp. at 1215. His statement that this presumption is less weighty where plaintiffs are foreigners, *id.*, is fully supported by his citation to *Piper Aircraft*, 454 U.S. at 255-56, 102 S.Ct. at 265-66.

[1] Judge Weinfeld reasonably held that appellants have very minimal contacts with the United States: the contracts at issue in this action relate exclusively to the Philippines; most witnesses and documents are in the Philippines; many witnesses speak Tagalog, a Philippines dialect, as their primary language; and obtaining documents located in the Philippines would probably require the use of letters rogatory and might also be complicated by a Philippines presidential decree prohibiting removal of documents from the Philippines without official approval. 640 F.Supp. at 1215-17. On the other side, favoring a New York forum, were the facts that PepsiCo is a New York corporation; some negotiations for the 1983 settlement did happen to occur in New York while Transunion's president was visiting there, and it was during these negotiations that the alleged fraudulent misrepresentations were made by senior PepsiCo officials; and some few witnesses and documents are in New York. *Id.* at 1216. Judge Weinfeld reasonably concluded that "[p]laintiffs have not offered a single compelling reason with respect to their own convenience to support their choice of this forum." *Id.* at 1217.

Public interest factors similarly were reasonably held to favor dismissal: Philippines law would probably apply to both the 1981 and 1983 agreements and to the effects of the order entered by a Philippine court upon settlement of the 1983 Philippine litigation; Philippine courts are apparently no more congested than the courts of the Southern District of New York; no showing was made that political unrest in the Philippines has had an adverse effect upon the judicial system there; PepsiCo has assets in the Philippines against which a Philippine judgment could be enforced (alternatively, if these proved inadequate, a Philippines judgment could be enforced against New York assets); and appellants could assert their claims in the New York complaint as counterclaims in PepsiCo's Philippines action, thereby saving the unwarranted waste of judicial resources that would result from the trial of claims arising out of the same facts in both New York and the Philippines. *Id.* at 1217-19.

[2] Appellants rely heavily on the fact that the New York complaint includes a RICO count that they may not be able to assert in the Philippines. This argument has no merit. First, though appellants might not be able to claim RICO violations and RICO triple damages in the Philippines, they could assert the three underlying frauds (set out at 640 F.Supp. at 1214). That they could not get triple damages if they proved the frauds underlying their RICO claim in the Philippines is irrelevant: "dismissal may not be barred solely because of the possibility of an unfavorable change in law." *Piper Aircraft*, 454 U.S. at 249, 102 S.Ct. at 262. Furthermore, Judge Weinfeld noted that "plaintiffs' RICO cause of action, as alleged, appears to be legally deficient" due to improper pleading and lack of standing as to two of the three alleged predicate acts, 640 F.Supp. at 1217 & n. 19.

Appellants raise for the first time on appeal the argument that the RICO statute specifies venue in the United States. Though 18 U.S.C. § 1965(a) (1982) provides that any civil RICO action "may be instituted" in the district court in any district with which the defendant has certain specified *130 connections, dismissal on *forum non conveniens*

811 F.2d 127

Page 4

811 F.2d 127, RICO Bus.Disp.Guide 6538
(Cite as: 811 F.2d 127)

grounds has been upheld in many other cases involving statutes with special venue provisions. For example, the Jones Act provides, 46 U.S.C. § 688(a) (1982), that jurisdiction "shall be" in district court. Yet this court, upholding a dismissal of a Jones Act claim when there was a convenient Philippines forum, has held that the forum non conveniens doctrine is applicable in Jones Act cases. *Cruz v. Maritime Company of Philippines*, 702 F.2d 47, 48 (2d Cir.1983) (per curiam); see also *Koster v. Lumbermens Mutual Casualty Co.*, 330 U.S. 518, 522 n. 2 & 531-32, 67 S.Ct. 828, 830 n. 2 & 835, 91 L.Ed. 1067 (1947) (upholding dismissal on forum non conveniens grounds of a derivative suit filed under 28 U.S.C. § 112 (recodified as amended at 28 U.S.C. § 1401 (1982))); *Wells Fargo & Co. v. Wells Fargo Express Co.*, 556 F.2d 406, 431 (9th Cir.1977) (suggesting a Lanham Act infringement claim might be dismissed on forum non conveniens grounds, though the Act contains a special venue provision, 15 U.S.C. § 1121 (1982)).

[3] Appellants' argument that RICO cases cannot be dismissed on forum non conveniens grounds is based chiefly upon the statement in the legislative history that "[s]ection 1965 [of RICO] contains broad provisions regarding venue ..., which are modeled on present antitrust legislation," H.R.Rep. No. 1549, 91st Cong., 2d Sess. 58 (1970) ("House Report"), reprinted in 1970 U.S.Code Cong. & Admin.News 4007, 4034. This statement, they argue, indicates congressional intent that the RICO venue provision should embody the holding in *United States v. National City Lines, Inc.*, 334 U.S. 573, 68 S.Ct. 1169, 92 L.Ed. 1584 (1948), that a special venue provision, section 12 of the Clayton Act, 15 U.S.C. § 22 (1982), deprived the court of discretion to dismiss a Sherman Act suit on forum non conveniens grounds. This argument is unpersuasive. The decision in *National City Lines* was based upon a thorough review of legislative history of the Clayton Act, which disclosed "no other thought than that the choice of forums was given as a matter of right, not as one limited by judicial discretion." 334 U.S. at 586-87, 68 S.Ct. at 1176. A review of the legislative history of RICO, however, discloses no mandate that the doctrine of forum non conveniens should not apply, nor is there

any indication that Congress had the interpretation of 15 U.S.C. § 22 in *National City Lines* in mind when it drafted section 1965 of RICO. Indeed, the House Report's reference to "present" antitrust legislation suggests that Congress was aware that the result in *National City Lines* was effectively overruled by Congress in 1948 when it enacted 28 U.S.C. § 1404(a) (1982), the legislative history of which states that it "was drafted in accordance with the doctrine of forum non conveniens, permitting transfer to a more convenient forum, even though the venue is proper." H.R.Rep. No. 308, 80th Cong., 1st Sess. A132 (1947); see *United States v. National City Lines, Inc.*, 337 U.S. 78, 69 S.Ct. 955, 93 L.Ed. 1226 (1949). It follows that at the time RICO was enacted in 1970, the forum non conveniens doctrine applied to antitrust suits by virtue of 28 U.S.C. § 1404(a), so the reference in the RICO legislative history to 18 U.S.C. § 1965(a) having been modeled on the antitrust venue provisions does not avail appellants.

[4] Nor is there any merit in appellants' claim that the judge abused his discretion in granting a protective order to prevent further discovery prior to its decision on the motion to dismiss. Motions to dismiss for forum non conveniens may be decided on the basis of affidavits. *Alcoa Steamship Co. v. M/V Nordic Regent*, 654 F.2d 147, 149 (2d Cir.) (en banc), cert. denied, 449 U.S. 890, 101 S.Ct. 248, 66 L.Ed.2d 116 (1980). Indeed, as the Court noted in *Piper Aircraft*, 454 U.S. at 258, 102 S.Ct. at 267, "[r]equiring extensive investigation would defeat the purpose of [the] motion."

Judgment affirmed.

C.A.2 (N.Y.), 1987.
Transunion Corp. v. PepsiCo, Inc.
811 F.2d 127, RICO Bus.Disp.Guide 6538

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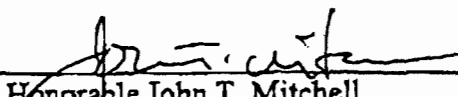
IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER
MAGISTRATE DIVISION

TERESA R. BLANKENSHIP:)	
	)	Case No.: CV 2007-00572
Petitioner,)	
vs.	)	ORDER DENYING
	)	PROTECTIVE ORDER
WASHINGTON TRUST BANK,)	
as Trustee,)	
Respondent.)	

THIS MATTER having come before the Court by way of Respondent's motion on January 22, 2008, whereby Petitioner TERESA R. BLANKENSHIP was represented by and through her attorney of record, Todd M. Reed of Powell and Reed and the Respondent WASHINGTON TRUST BANK was represented by Mr. Harrington of Lukins and Annis and good cause being shown:

IT IS HEREBY ORDERED that the depositions shall occur as originally noticed up for January 22, 2008. Respondent's Motion for Protective Order is denied.

DATED this 25th day of January, 2008.



The Honorable John T. Mitchell

CLERK'S CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the foregoing Order was mailed, postage prepaid, this 5 day of ~~January~~ *February*, 2008, addressed to:

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Attorney for Petitioner

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

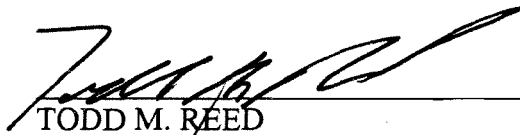
TERESA R. BLANKENSHIP:)	
	)	Case No.: CV 2007-00572
Petitioner,)	
vs.	)	MOTION FOR SANCTIONS
	)	PURSUANT TO IDAHO RULE
WASHINGTON TRUST BANK,	)	OF CIVIL PROCEDURE 37(d)
as Trustee,	)	AND NOTICE OF HEARING
Respondent.)	
_____)	

COMES NOW, the Petitioner TERESA BLANKENSHIP, by and through her attorney of record, Todd M. Reed, and hereby moves the court for sanctions, pursuant to Idaho Rule of Civil Procedure 37(d), for the failure of Diana Albrethsen and Susan J. Kuzma to appear for depositions at the time and place designated.

The basis for this motion is contained in the Affidavit of Todd M. Reed, counsel for the Petitioner, attached hereto as Exhibit A.

Petitioner hereby requests that in addition to sanctions the court can consider under Idaho Rule of Civil Procedure 37 (a)(b) and (c), that at the very least Petitioner should be awarded her attorney fees and costs in preparing for the depositions, as well as the costs incurred for the depositions that did not occur because of Respondent's actions.

DATED this 23 day of January, 2008.

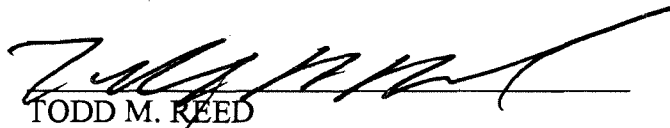


TODD M. REED
Attorney for Petitioner

NOTICE OF HEARING

Notice is hereby given that the Petitioner, TERESA BLANKENSHIP, by and through her attorney of record, Todd M. Reed, will call on for hearing the foregoing Motion before the Honorable John T. Mitchell, Magistrate Judge of the above Court, **on the 12th day of February, 2008, at the hour of 4:00 p.m.**, or as soon thereafter as it may be heard at the Courthouse in Coeur d'Alene, Idaho, at which time Petitioner will provide oral argument and testimony.

DATED this 23 day of January, 2008.



TODD M. REED
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on this 24 day of January, 2008, I served a true and correct copy of the foregoing on the individuals listed below, by the following method:

Mr. Thomas M. Culbertson
Lukins & Annis, PS
717 West Sprague Avenue, Suite 1600
Spokane, Washington 99201-0466

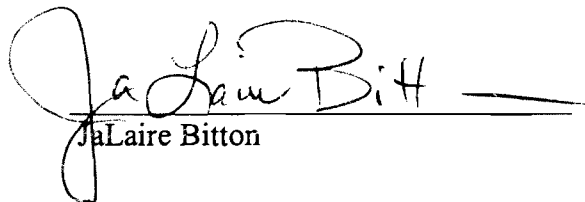
____ U.S. Mail, postage prepaid
____ Hand Delivered
☒ Overnight mail
____ Faxed (509) 747-2323

Mr. Peter J. Smith IV
Lukins & Annis, PS
250 Northwest Blvd., Suite 102
Coeur d'Alene, Idaho 83814-2971

____ U.S. Mail, postage prepaid
____ Hand Delivered
☒ Overnight mail
____ Faxed (208) 666-4118

James Theodore Diehl
Attorney at Law
106 West Superior Street
Sandpoint, Idaho 83864

____ U.S. Mail, postage prepaid
____ Hand Delivered
☒ Overnight mail
____ Faxed (208) 263-8983


JaLaire Bitton

4. Following noticing up these two (2) individuals for deposition, I received a Motion to Dismiss, along with an Affidavit from Susan Kuzma, as well as a Motion for Protective Order, filed by Peter J. Smith IV, of Lukins and Annis, attorneys for the Respondent.

5. I communicated with Mr. Smith on Friday, January 18, 2008, in an effort to resolve the matter without the need for a court hearing. This is pursuant to the local court rules involving discovery matters in general.

6. Discussion ensued involving moving the depositions, but no agreement was reached. At no time during this discussion with Mr. Smith did he inform me that either Susan Kuzma or Diana Albrethsen was unable to attend the hearings or they did not have the documents.

7. I received the attached communication (attached as Exhibit B) via facsimile at approximately 4:41 p.m. from Mr. Smith, requesting rescheduling to the week of February 4, 2008 from January 22, 2008. This was unacceptable to my clients and I did not contact Mr. Smith advising him that that was acceptable, nor did I ever represent that that week was acceptable or any other date other than January 22, 2008, when the depositions were scheduled to occur.

8. I telephonically attended a hearing with this Court on January 22, 2008, at 8:30 a.m. At no time on January 22, 2008, prior to that telephonic hearing did I receive communication from any attorney for Washington Trust Bank. At the hearing a third attorney for Washington Trust Bank, a Mr. Harrington attended and argued in favor of the protection order. I, as the attorney for the Petitioner, argued against the protection order. At no time did Mr. Harrington represent to the Court that there was an agreement reached for the continuation of the depositions and in fact when the court stated that the depositions would take place at 9:30 a.m. the same date as the ruling, Mr. Harrington did not correct the Court. In fact, as the court

may recall, I stated on the record that I had not heard anything from the Respondent's attorney as to Ms. Kuzma or Ms. Albrethsen being unavailable for deposition or their documents not being made available.

9. Following the telephonic hearing, I communicated with Ted Diehl, who was also noticed up on the depositions as being a representative of one of the trust beneficiaries. To my understanding, Mr. Diehl received no communication from anyone at Lukins and Annis stating that the depositions were continued.

10. After my discussion with Mr. Diehl, I received a call from Mr. Peter Smith, attorney for Lukins and Annis who represents Washington Trust Bank stating that they would not be able to make it by 9:30. I advised him to call me back when they would make it for the deposition on January 22, 2008. After waiting an additional twenty (20) minutes, I contacted Mr. Smith, since the Court Reporter had arrived and we were ready for the deposition and Mr. Smith had not called me back.

11. Mr. Smith stated that he was in Coeur d'Alene and that they would not be attending the depositions. At the same time, my staff advised that Mr. Culbertson was on another line holding for me. I spoke with Mr. Culbertson and he stated that he would not be attending the deposition, neither would Diane Albrethsen or Suzan Kuzma and they did not have any of the documents that we had requested. This was the first I had received any communication of their inability to be present with the documents or be able to attend the depositions. All of the information and communication until this point related to the protection order pending the Motion to Dismiss.

12. At that particular juncture, Mr. Culbertson stated that according to Mr. Smith, I had agreed to continue the depositions. I read Mr. Culbertson the letter that Mr. Smith had sent to me (attached). I would also note that the same letter has been cc'd to Mr. Culbertson. At no

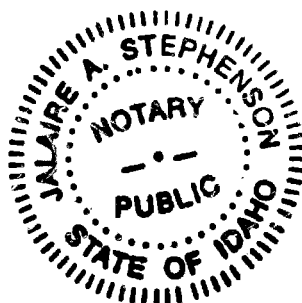
time did I agree to continue the depositions. There was an attempt to resolve our differences, but that attempt was unsuccessful.

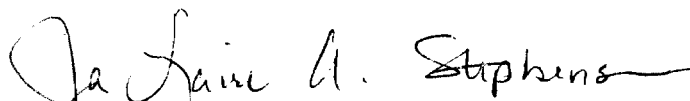
FURTHER, your Affiant saith not.

DATED this 21 day of January, 2008


TODD M. REED

SUSBSCRIBED AND SWORN TO before me, a Notary Public, on this 24 day of January, 2008.




Notary Public
Residing at: Trust River
My Commission Expires: 3.8.10

LUKINS&ANNIS | ATTORNEYS

CELEBRATING 35 YEARS OF SERVICE

250 Northwest Blvd., Suite 102
Coeur d'Alene, ID 83814-2971
t 208-667-0517
f 208-664-4125 lukins.com

PETER J. SMITH IV
psmith@lukins.com
Direct Fax: (208) 666-4118
Direct Dial: (208) 666-4108

January 18, 2008
VIA FACSIMILE

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
P. O. Box 1005
Sandpoint, ID 83864-1339

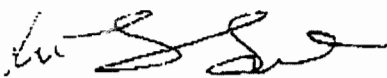
Re: Blankenship v. Washington Trust Bank
Rescheduling Depositions

Dear Todd:

This letter follows up the voicemail I left you this afternoon. Can we reschedule the three (3) depositions you have scheduled for January 22, 2008 to the week of February 4, 2008?

Please let me know as soon as possible. Thank you.

Very truly yours,



PETER J. SMITH IV
Attorney

PJS:pjs
cc: Tom Culbertson

001-01-03-22

THOMAS M. CULBERTSON
ISB # 6748
PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS, P.S.
Ste 102
250 Northwest Blvd
Coeur d'Alene, ID 83814-2971
Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

Attorneys for Respondent
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

v.

WASHINGTON TRUST BANK, as trustee,

Respondent.

NO. CV-2007-00572

OBJECTION TO PETITIONER'S
MOTION FOR SANCTIONS

COMES NOW, the Respondent WASHINGTON TRUST BANK, by and through its attorneys of record, Lukins & Annis, P.S., and hereby objects to the Petitioner's Motion for Sanctions served on January 24, 2008 and set for hearing on February 12, 2008.

I. Factual Background

On January 7, 2008, Petitioner served Respondent with Notices of Deposition Duces Tecum of Susan J. Kuzma and Diana Albrethsen. The depositions of Ms. Kuzma and Ms. Albrethsen were scheduled for January 22, 2008 at 9:30 a.m. and 1:30 p.m., respectively. The

OBJECTION TO PETITIONER'S MOTION FOR
SANCTIONS: 1

depositions were to be taken at the office of the counsel for a Petitioner, Todd Reed, in Sandpoint, Idaho.

Before scheduling the depositions, Petitioner's counsel did not consult with Respondent's counsel to accommodate the needs and reasonable requests of the witnesses and Respondent's counsel. It is important to point out that the witness do not live or work in Sandpoint. The location of the depositions was inconvenient to both witnesses.

On January 14, 2008, Respondent moved to dismiss Petitioner's Petition for Removal of Trustee and Preliminary Injunction.¹ Respondent's Motion is set for hearing on March 4, 2008.

Along with the Motion to Dismiss, respondent filed a Motion for Protective Order seeking to delay the depositions of Ms. Kuzma and Ms. Albrethsen until after the March 4, 2008 hearing on the Motion to Dismiss. It was the Respondent's position that the depositions were not necessary before the court considered the Motion to Dismiss on jurisdictional grounds. The hearing on the Motion for Protective Order was set for 8:30 a.m. on January 22, 2008.

¹ Respondent's motion is made on the basis that (1) the principal place of administration of the Trust is Spokane, Washington, and (2) Idaho Code §§ 15-7-201 – 15-7-203 mandates that this Court refuse to entertain the proceeding commenced by the Petitioner. In particular, Idaho Code § 15-7-101 provides that "the principal place of administration of a trust is the trustee's place of business where the records pertaining to the trust are kept, or at the trustee's residence if he has no such place of business." In this case, the trust instrument at issue does not designate the principal place of administration of the Trust and the principal place of administration of the Trust pursuant to Idaho code § 15-7-101 is Spokane, Washington. See *Paragraph 5 of Affidavit of Suzan J. Kuzma filed January 24, 2008*.

Idaho Code § 15-7-203 provides that in Idaho Court will not, over the objection of a party, entertain proceedings to remove a trustee if the trust is registered or has its principal place of administration in another state, unless (1) all appropriate parties could not be bound by litigation in the courts of the state where the trust is registered or has its principal place of administration or (2) when the interests of justice otherwise would seriously be impaired. Neither exception applies in this case. Thus, Idaho Code § 15-7-203 requires that this Court to refuse to entertain this proceeding.

OBJECTION TO PETITIONER'S MOTION FOR
SANCTIONS: 2

Thereafter, on Friday, January 18, 2008, counsel for the Respondent contacted counsel for the Petitioner to determine whether the depositions of Ms. Kuzma and Ms. Albrethsen could be delayed until after the hearing on Respondent's Motion to Dismiss. Counsel for the Petitioner refused to delay the depositions until after a hearing on Respondent's Motion to Dismiss. However, counsel for the Petitioner suggested that he would be willing to reschedule the depositions for 7 to 10 days.

It was counsel for the Respondent's understanding that counsel for the Petitioner agreed to delay the depositions of Ms. Kuzma and Ms. Albrethsen 7 to 10 days. Based on this understanding, counsel for the Respondent determined that Ms. Kuzma and Ms. Albrethsen would be available for deposition the week of February 4, 2008. Counsel for the Respondent called counsel for the Petitioner's cell phone and left a voice message with the proposed date of the rescheduled depositions and sent letter with the same information on the afternoon of Friday, January 18, 2008. Counsel for the Petitioner did not respond one way or another to the proposed dates for the rescheduled depositions on Friday, January 18, 2008 or Monday, January 21, 2008.

Since the Petitioner would not agree to delay the depositions until after the hearing on Respondent's Motion to Dismiss, the Petitioner went forward with its Motion for a Protective Order on the morning of January 22, 2008. As of 8:30 a.m. on January 22, 2008, it was still Respondent's understanding that Petitioner had agreed to delay the depositions of Ms. Kuzma and Ms. Albrethsen 7 to 10 days.

Respondent's Motion for a Protective Order was denied by this Court. After the hearing, counsel for the Respondent called counsel for the Petitioner to determine a mutually agreed

OBJECTION TO PETITIONER'S MOTION FOR
SANCTIONS: 3

upon date when the depositions of Ms. Kuzma and Ms. Albrethsen could be held within the next 7 to 10 days. At this point, counsel for Petitioner informed counsel for the Respondent that the depositions were going forward that morning. Counsel for the Petitioner explained that he had never agreed to reschedule the depositions, but had only suggested that it may be possible.

Upon learning that no agreement to reschedule the depositions had been reached, counsel for the Respondent informed counsel for the Petitioner that Ms. Kuzma and Ms. Albrethsen would not be attending the depositions that morning. Counsel for the Petitioner stated that he was going forward with the depositions and would make a record of the witnesses' failure to attend.

* In a show of good faith, Respondent paid for the Court Reporter's fee for appearing at the depositions. Respondent also proposed that the depositions of Ms. Kuzma and Ms. Albrethsen be rescheduled as soon as reasonably possible. Despite these efforts to reach a reasonable solution, counsel for the Petitioner insisted upon involving this Court and requesting sanctions.

II. Discussion

The Petitioner requests that this court level sanctions against the Respondent for the failure of Ms. Kuzma and Ms. Albrethsen to attend the depositions scheduled for January 22, 2008. In particular, the petitioner requests that this Court impose sanctions under Idaho Rules of Civil Procedure 37(d) and award attorney fees and costs for preparing for the depositions.

OBJECTION TO PETITIONER'S MOTION FOR
SANCTIONS: 4

A. The Petitioner's failure to appear at the depositions was substantially justified and the circumstances do not warrant the imposition of sanctions or an award of expenses.

The facts in this case do not justify an award of sanctions or attorney fees. The actions of Respondent were based upon an honest misunderstanding. There was no intent to intentionally delay the depositions of Ms. Kuzma and Ms. Albrethsen. In fact, this dispute over the scheduling of the depositions should have been resolved without this Court's involvement.

Counsel for the Respondent acted under an honest misunderstanding that counsel for the Petitioner had agreed to reschedule the depositions. This misunderstanding was based on the following facts:

(1) counsel for Respondent suggested that he would agree to delay the depositions 7 to 10 days;

(2) counsel for Respondent provided his cell phone number to counsel for Respondent to call regarding new dates because he would be out of the office the afternoon of Friday, January 18, 2008; and

(3) even after receiving a phone message on his cell phone and a letter via fax regarding rescheduling the depositions on Friday, January 18, 2008, counsel for Petitioner did not clarify that he intended to go forward with the depositions until after the hearing on Tuesday, January 22, 2008.

It is now clear that counsel for the Petitioner did not agree to reschedule the depositions. However, counsel for the Petitioner never communicated that he would not reschedule the depositions before the morning of Friday, January 22, 2008. In fact, he allowed counsel for the

OBJECTION TO PETITIONER'S MOTION FOR
SANCTIONS: 5

Respondent to act under his misunderstanding until it was too late to take corrective action. Evidently, counsel for Petitioner's believes his silence spoke loud enough.

Under these circumstances, counsel for Respondent acted reasonably. The Respondent's failure to appear at the depositions was substantially justified and the circumstances do not warrant the imposition of sanctions or an award of expenses.

B. Court involvement in this dispute was unnecessary and the depositions would likely have already occurred if Petitioner did not insist in involving the Court in this dispute.

Since Tuesday, January 22, 2008, the Respondent has requested on numerous occasions that the Petitioner cooperate in rescheduling depositions at a time and place convenient to both parties. The Respondent demonstrated that it is ready and willing to provide the witnesses for deposition at a date and place agreed upon by the parties before March 4, 2008. One such date was Monday, February 4, 2008. The Petitioner has refused to agree to reset the depositions. Counsel for the Petitioner stated he preferred to have this Court resolve this matter. It is important to point out that the depositions could have already taken place if counsel for the Petitioner had worked with counsel for the Respondent.

The Petitioner requests "at the very least... attorney fees and costs in preparing for the depositions, as well as the costs incurred for the depositions that did not occur because if [sic] Respondent's actions." The Petitioner should not be awarded attorney's fees for preparing for the depositions for three reasons. First, the Petitioner still desires to take the depositions of Ms. Kuzma and Ms. Albrethsen. Any time spent in preparing for the depositions was not wasted. Second, the depositions were scheduled to take place at the office of counsel for the Petitioner.

OBJECTION TO PETITIONER'S MOTION FOR
SANCTIONS: 6

Other than the time spent preparing for the deposition, counsel for Petitioner should not have charged for time spent at his own office where he could have done work on other matters.

Third, the facts show that an honest misunderstanding existed between counsel for the Petitioner and Respondent. It is reasonably apparent that counsel for Petitioner knew of this misunderstanding, but did not clarify his position until it was too late for Respondent to take corrective action. As to the costs incurred for the depositions, as an act of good will, the Respondent paid the Court Reporter's fee for appearing at the depositions.

C. Respondent should be awarded attorney fees for having to defend this unnecessary and frivolous Motion for Sanctions.

The Petitioner's Motion for Sanctions was unnecessary and frivolous. The Motion was unnecessary because the Respondent offered to reschedule the depositions on February 4, 2008 or a date selected by the Petitioner. The Petitioner refused to cooperate and insisted upon bringing this matter before the Court. Moreover, but for the Petitioner's unreasonable conduct, the depositions would have already occurred.

The motion was frivolous because the facts in this case clearly do not support an award of sanctions or attorney's fees. The facts clearly show that an honest misunderstanding existed between counsel for the Petitioner and Respondent. It is apparent that counsel for Petitioner knew of this misunderstanding, but did not clarify his position until it was too late for Respondent to take corrective action. This misunderstanding should have been resolved between counsel without Court involvement. As such, the motion for sanctions is simply frivolous.

**OBJECTION TO PETITIONER'S MOTION FOR
SANCTIONS: 7**

Finally, the Petitioner has subpoenaed Ms. Kuzma and Ms. Albrethsen for the hearing on this Motion. These two individuals have nothing to do with the misunderstanding between counsel. Why they are being subpoenaed to the hearing is a mystery to Respondent.

Given these facts, this Court should award attorney's fees to the Respondent for having to prepare a response to this unnecessary and frivolous Motion for Sanctions.

III. Conclusion

The Respondent respectfully requests that the Petitioner's Motion for Sanctions be denied and attorney's fees for defending this Motion be awarded to Respondent.

DATED this 5th day of February, 2008.

LUKINS & ANNIS, P.S.

By 

THOMAS M. CULBERTSON

ISB # 6748

PETER J. SMITH IV

ISB #6997

Attorneys for Respondent

WASHINGTON TRUST BANK

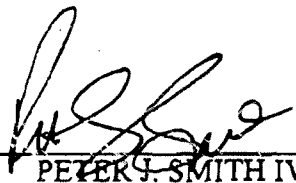
OBJECTION TO PETITIONER'S MOTION FOR
SANCTIONS: 8

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of February, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
Post Office Box 1005
Sandpoint, Idaho 83864
Attorney for Petitioner

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy (FAX) (208) 263-4438



PETER J. SMITH IV

OBJECTION TO PETITIONER'S MOTION FOR
SANCTIONS: 9

POWELL & REED, P.C.
 Todd M. Reed, Attorney at Law
 318 Pine Street
 P.O. Box 1005
 Sandpoint, Idaho 83864
 Phone: (208) 263-3529
 Fax: (208) 263-4438
 ISB No. 4788

STATE OF IDAHO } ss
 COUNTY OF KOOTENAI }
 FILED: 3-3-08
 AT 11:15 O'CLOCK AM
 CLERK, DISTRICT COURT
[Signature]
 DEPUTY

Attorney for Petitioner

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER
 MAGISTRATE DIVISION

TERESA R. BLANKENSHIP:)	
	)	Case No.: CV 2007-00572
Petitioner,)	
vs.	)	ORDER REGARDING
	)	HEARING ON MOTION
WASHINGTON TRUST BANK,	)	FOR SANCTIONS
as Trustee,)	
Respondent.)	

THIS MATTER having come before the Court by way of hearing on Petitioner's Motion for Sanctions, with Petitioner, TERESA BLANKENSHIP, present and represented by and through her attorney of record, Todd M. Reed, via telephone and Respondent appearing by and through it's attorney of record, Tom Culbertson and Peter Smith and the Court hearing argument from Petitioner and Respondent and good cause being shown:

IT IS HEREBY ORDERED that Petitioner's Motion for Sanctions is granted pursuant to Idaho Rule of Civil Procedure 37 (b). The Court further determines that the appropriate form of sanctions for Respondent's actions regarding scheduled depositions is as follows:

1. Petitioner is awarded all attorney fees associated with the date of the depositions, as well as documents prepared to facilitate the depositions and communications for coordinating the depositions.

2. Petitioner is additionally allowed two (2) hours of preparation time for the depositions.

3. Petitioner is awarded attorney fees for bringing this Motion for Sanctions and related matters in bringing this motion.


4. Petitioner is awarded attorney for responding to and arguing against the Protection Order, in which Petitioner was the prevailing party.

5. By submission of this Order, Petitioner acknowledges payment and receipt of all of the foregoing amounts and Respondent's satisfaction of its obligations hereunder.

DATED this 3rd ^{March} day of ~~February~~, 2008.


The Honorable John T. Mitchell

APPROVED AS TO FORM AND CONTENT:

 2-29-2008
PETER J. SMITH IV
Attorney for Respondent
Washington Trust Bank

CLERK'S CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the foregoing Order was mailed, postage prepaid, this 3 day of ~~February~~ March, 2008, addressed to:

Mr. Thomas M. Culbertson
Lukins & Annis, PS
717 West Sprague Avenue, Suite 1600
Spokane, Washington 99201-0466

☐ U.S. Mail, postage prepaid
☐ Hand Delivered
☐ Overnight mail
☒ Faxed (509) 747-2323

Mr. Peter J. Smith IV
Lukins & Annis, PS
250 Northwest Blvd., Suite 102
Coeur d'Alene, Idaho 83814-2971

☐ U.S. Mail, postage prepaid
☐ Hand Delivered
☐ Overnight mail
☒ Faxed (208) 666-4118


James Theodore Diehl
Attorney at Law
106 West Superior Street
Sandpoint, Idaho 83864

☐ U.S. Mail, postage prepaid
☐ Hand Delivered
☐ Overnight mail
☒ Faxed (208) 263-8983

Todd M. Reed
Attorney at Law
Post Office Box 1005
Sandpoint, Idaho 83864

☐ U.S. Mail, postage prepaid
☐ Hand Delivered
☐ Overnight mail
☒ Faxed (208) 263-4438

Court Reporter Co.
Faxed


Deputy Clerk of the Court

POWELL & REED, P.C.
Todd M. Reed, Attorney at Law
318 Pine Street
P.O. Box 1005
Sandpoint, Idaho 83864
Phone: (208) 263-3529
Fax: (208) 263-4438
ISB No. 4788

Attorney for Petitioner

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2008 APR 22 P 2:55

MAINE SCOTT
CLERK DISTRICT COURT

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER
MAGISTRATE DIVISION


TERESA R. BLANKENSHIP:)	
	)	Case No.: CV 2007-00572
Petitioner,)	
vs	)	ORDER DENYING
	)	MOTION TO DISMISS
WASHINGTON TRUST BANK,)	
as Trustee,)	
Respondent.)	

THIS MATTER having come before the Court by way of Respondent's Motion to Dismiss on April 17, 2008, whereby Petitioner TERESA R. BLANKENSHIP was represented via telephone by and through her attorney of record, Todd M. Reed of Powell and Reed, and the Respondent WASHINGTON TRUST BANK was represented in person by William D. Hyslop of Lukins and Annis. Additionally, Ted Diehl, who represents an additional beneficiary of this trust also appeared via telephone, but did not participate in the hearing.

After hearing argument, as well as reviewing affidavits and motions and good cause being shown:

IT IS HEREBY ORDERED that Respondent's Motion to Dismiss is denied, due to disputed facts, as well as, if in fact the matter was a summary judgment, denies that as well.

DATED this 22nd day of April, 2008.


The Honorable John T. Mitchell

CLERK'S CERTIFICATE

I hereby certify that on this 21 day of April, 2008, I served a true and correct copy of the foregoing on the individuals listed below, by the following method:

Mr. Thomas M. Culbertson
Lukins & Annis, PS
717 West Sprague Avenue, Suite 1600
Spokane, Washington 99201-0466

☐ U.S. Mail, postage prepaid
☐ Hand Delivered
☐ Overnight mail
☒ Faxed (509) 747-2323

Mr. Peter J. Smith IV
Lukins & Annis, PS
250 Northwest Blvd., Suite 102
Coeur d'Alene, Idaho 83814-2971

☐ U.S. Mail, postage prepaid
☐ Hand Delivered
☐ Overnight mail
☒ Faxed (208) 666-4118

Mr. William D. Hyslop
Lukins & Annis, PS
717 West Sprague Avenue, Suite 1600
Spokane, Washington 99201-0466

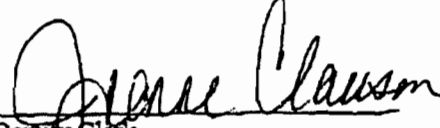
☐ U.S. Mail, postage prepaid
☐ Hand Delivered
☐ Overnight mail
☒ Faxed (509) 747-2323

James Theodore Diehl
Attorney at Law
106 West Superior Street
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☐ Hand Delivered
☐ Overnight mail
☒ Faxed (208) 263-4438


Deputy Clerk

ORIGINAL

POWELL & REED, P.C.
Todd M. Reed, Attorney at Law
318 Pine Street
P.O. Box 1005
Sandpoint, Idaho 83864
Phone: (208) 263-3529
Fax: (208) 263-4438
ISB No. 4788

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT

2008 APR 16 P 4: 42

MADE COURT
CLERK OF DISTRICT COURT

Attorney for Petitioner

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,)	
	)	Case No.: CV 2007-00572
Petitioner,)	
vs.	)	OBJECTION TO
	)	MOTION TO DISMISS
WASHINGTON TRUST BANK,)	
as Trustee,)	
Respondent,)	
_____)	

COMES NOW, the Petitioner, TERESA R. BLANKENSHIP, by and through her attorney of record, Todd M. Reed and hereby objects to Respondent's Motion to Dismiss.

ARGUMENT

Respondent attempts to have this Court dismiss Petitioner's action to remove them as a trustee and thereby dismiss the matter in the State of Idaho. In support of this Respondent asserts that the Trust was never administered in the State of Idaho, both by affidavit and representation to the Court. However, by way of Affidavit of Teresa Blankenship and a statement from Washington Trust Bank's former counsel, the matter was administered from the Coeur d'Alene office until January 31, 2007, when the trust administration "transferred" to Spokane. This is only after Petitioner hired counsel to pursue this matter.

The Court is respectfully requested to draw their attention to 15-7-101, which states in relevant part, "Duty to Register Trust. The Trustee of the Trust having its principal place of

administration in this state shall register the Trust in the Court of this State at the principle place of administration.”


Since the Trust was never registered in the State of Washington or in the State of Idaho, Idaho Code 15-7-104 applies which states in relevant part relative to the failure to register. “A trustee who fails to register a trust in a proper place as required by this Part, for purposes of any proceedings initiated by beneficiary of the trust prior to the registration is subject to the personal jurisdiction of any court in which the trust could have been registered.” Clearly, Idaho is one of the states where the Trust could have been registered. All of the Trust property is in the State of Idaho and in fact until January, 2007, the Trust was operated and administrated from Coeur d’Alene, Idaho. Washington Trust Bank’s failure to register the Trust subjects it to the personal jurisdiction in the State of Idaho.

Furthermore the Court, even if it finds that Washington Trust Bank has not been subjected to the Jurisdiction of the State of Idaho pursuant to the above referenced sites can also determine that the litigation shall continue in Idaho pursuant to Idaho Code 15-7-203. Clearly under these circumstances the matter should proceed to trial in Idaho in the interest of justice. Washington Trust Bank suffers no prejudice by the matter proceeding in Idaho and in fact additional economy will be further benefited by the matter proceeding here. It is a situation in which both parties will incur additional fees if this matter is dismissed and refilled in the state of Washington.

CONCLUSION

For the reasons stated about, Washington Trust Bank should not have this matter dismissed and the matter should be allowed to continue in the State of Idaho.

DATED this 16 day of April, 2008.


TODD M. REED
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on this 12 day of April, 2008, I served a true and correct copy of the foregoing on the individuals listed below, by the following method:

Mr. Thomas M. Culbertson
Lukins & Annis, PS
717 West Sprague Avenue, Suite 1600
Spokane, Washington 99201-0466

☐ U.S. Mail, postage prepaid
☐ Hand Delivered
☒ Overnight mail
☒ Faxed (509) 747-2323

Mr. Peter J. Smith IV
Lukins & Annis, PS
250 Northwest Blvd., Suite 102
Coeur d'Alene, Idaho 83814-2971

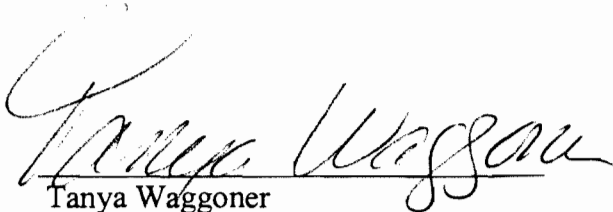
☐ U.S. Mail, postage prepaid
☐ Hand Delivered
☒ Overnight mail
☒ Faxed (509) 747-2323

Mr. William D. Hyslop
Lukins & Annis, PS
717 West Sprague Avenue, Suite 1600
Spokane, Washington 99201-0466

☐ U.S. Mail, postage prepaid
☐ Hand Delivered
☒ Overnight mail
☒ Faxed (509) 747-2323

James Theodore Diehl
Attorney at Law
106 West Superior Street
Sandpoint, Idaho 83864

☐ U.S. Mail, postage prepaid
☐ Hand Delivered
☒ Overnight mail
☒ Faxed (208) 263-8983


Tanya Waggoner

WILLIAM D. HYSLOP
ISB # 7141
PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS, P.S.
Ste 102
250 Northwest Blvd
Coeur d'Alene, ID 83814-2971
Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT

2008 MAY 12 P 2:11

NAME
CLERK DISTRICT COURT

Attorneys for Respondent
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

v.

WASHINGTON TRUST BANK, as trustee,

Respondent.

NO. CV-2007-00572

ANSWER BY RESPONDENT
WASHINGTON TRUST BANK

Respondent WASHINGTON TRUST BANK answers and responds to the Petition for
Removal of Trustee and Preliminary Injunction as follows:

I. ANSWER TO PETITION

1. In answer to paragraph I of the Petition, Respondent admits that Petitioner is the beneficiary of one (hereinafter "the Trust") of the four trusts created by the Last Will and Testament of Althea Lorraine Bowman, a copy of which is attached hereto. Respondent denies the remaining allegations of this paragraph.

2. In answer to paragraph II of the Petition, Respondent admits that Petitioner is a resident of Sandpoint, Bonner County, Idaho and that the Trust which is the subject of this action owns

ANSWER BY RESPONDENT
WASHINGTON TRUST BANK -

1

real property located in Bonner County, Idaho. Respondent denies any remaining allegations of this paragraph.

3. In answer to paragraph III of the Petition, Respondent denies that the Trust has been administered from Kootenai County, Idaho or that the Trust or trust administration has been transferred to Spokane County, Washington. As long as the Respondent has been the Trustee, the trust has always been administered by the Respondent from Spokane County, Washington.

4. In answer to paragraph IV of the Petition, Respondent denies the allegations of this paragraph.

5. In answer to paragraph V of the Petition, the allegations set forth therein state a belief and personal opinion of the Petitioner and therefore such allegations are not subject to admission or denial. However, Respondent denies the allegations in this paragraph that the trust has been operated in a manner in which...“the removal of the Trustee is appropriate under Idaho law.”

6. In answer to paragraph VI of the Petition, Respondent admits exercising its discretion, as the Trustee of one of the other three similar trusts created by the Last Will and Testament of Althea Lorraine Bowman, to issue a loan to the beneficiary of said other Trust, and denies that said loan is “outside of what is permitted in the trust.” Further, Respondent denies the remaining allegations of this paragraph.

7. In answer to paragraph VII of the Petition, Respondent denies the allegations of this paragraph.

8. In answer to paragraph VIII of the Petition, Respondent admits that in exercising its discretion as the Trustee of the Trust and of the other similar Trusts, that the sale of certain assets held by the Trusts has been considered at various points in time as a means of generating liquid assets which could be used to support the requests by the beneficiaries for payments from the

ANSWER BY RESPONDENT
WASHINGTON TRUST BANK -

respective Trusts. However, no decision to sell real property has occurred, no sale has taken place, and none of the real property has been listed for sale. Respondent denies the remaining allegations of this paragraph.

9. In answer to paragraph IX of the Petition, Respondent denies that there are grounds for the entry of a Preliminary Injunction to prohibit the Trustee from exercising or limiting its exercise of its discretion in administering the Trust. As such, Respondent denies that there are grounds for the entry of a Preliminary Injunction which would prohibit the sale of any real property held by the Trust. Nonetheless, Respondent would consent to entry of an appropriate order from the Court whereby real property held by the Trust cannot be sold without agreement of the beneficiary of the Trust involved or upon order of the Court, provided that such order is not binding upon any successor trustee, and is agreed to by the beneficiaries of the other trusts holding interests in said real property..

10. In answer to paragraph X of the Petition, the allegations contained therein do not call for an admission or denial, and therefore are denied.

II. AFFIRMATIVE DEFENSES

By way of Affirmative Defense, Respondent states as follows:

1. The Court lacks jurisdiction over the Trust and over the Respondent acting as Trustee for the Trust. The principle place of administration of the Trust is in Spokane, Washington which is the "Trustee's usual place of business where the records pertaining to the trust are kept" per IC § 15-7-101. Per IC §§ 15-7-201 – 15-7-203, Respondent objects to the Court entertaining proceedings under IC §15-7-201 or otherwise regarding the Trust or its administration. As a result, the Court should refuse to entertain these proceedings.

ANSWER BY RESPONDENT
WASHINGTON TRUST BANK -

2. The Petitioner lacks standing to bring this action or to assert any claims for any beneficiary of the other Trusts established by the Last Will and Testament of Althea Bowman.
3. The Petitioner's claims regarding the sale of real property held by the Trust are moot.

III. ADDITIONAL RESPONSE BY RESPONDENT

1. The Petition asks "that the Respondent be removed as the Trustee." As set forth above, there are no grounds upon which the Court has the jurisdiction to remove the Trustee nor should the Court remove the Trustee.
2. Nonetheless, the Trustee has advised the Petitioner on multiple occasions that it is willing to resign as Trustee upon the appointment of a qualified successor Trustee. To date, Petitioner has not been unable to locate a successor Trustee willing to assume the duties of Trustee. The Panhandle State Bank Trust Department and the Davidson Trust Department have each considered and have refused to become a successor Trustee. Petitioner then advised that the U.S. Bank Trust Department was being asked whether it would be willing to become the successor Trustee, but Petitioner has not advised that U.S. Bank responded that it would be willing to become the successor Trustee and sufficient time has passed that presumably U.S. Bank must have declined to serve as the successor Trustee. Despite the Respondent's willingness to resign as Trustee upon the appointment of a qualified successor Trustee, Petitioner has presented no qualified successor Trustee.
3. The Petition asks in paragraph IX "for a Preliminary Injunction to prohibit the sale of the real property until a determination can be made in a hearing or trial as the future of the Trustee administering this Trust and the actual sale value of the real property." Further, the Petition asks "that a Permanent Preliminary Injunction issue, prohibiting the sale of real property within the Trust." In the proper exercise of its discretion as Trustee, the Respondent has the authority to

ANSWER BY RESPONDENT
WASHINGTON TRUST BANK -

sell assets of the Trust if such is deemed reasonable and necessary to fulfill the interests of the Trust in providing for the beneficiary. To date, the Respondent has not made any decision to sell any real property held by the Trust, has not listed any real property for sale, and has not sold any of the real property held by the Trust.

4. The Trust, for which the Petitioner is a beneficiary, holds an undivided interest in real property in Bonner County, Idaho. The other undivided interests in said real property is held by each of the other three trusts, of which Petitioners three brothers are each a respective beneficiary. The Respondent is willing to stipulate to an agreement whereby the real property held by the Trust and by the other similar Trusts will not be sold except upon the unanimous consent of the four beneficiaries despite the needs of any beneficiary, or if the beneficiaries of the respective Trusts cannot otherwise agree, then upon an order of a Court authorizing and directing said sale of real property as petitioned by one or more of said beneficiaries with the Respondent being absolved for any liability for failure to sell assets where all four beneficiaries cannot or will not agree to said sale, and provided that said agreement is not binding upon any successor Trustee.

WHEREFORE, having responded and answered the Petition, the Respondent prays for relief as follows:

1. An order dismissing the Petition for lack of jurisdiction by the Court.
2. An order dismissing the Petition as the Respondent has been willing to resign as Trustee upon the appointment of a qualified successor Trustee, but Petitioner has failed to identify such qualified successor Trustee.
3. An order dismissing the Petition's claims regarding the sale of real property as such claims are moot. Alternatively, for an order whereby the real property held by the Trust and by

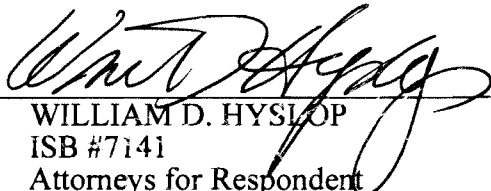
ANSWER BY RESPONDENT
WASHINGTON TRUST BANK -

the other similar Trusts will not be sold except upon the unanimous consent of the four beneficiaries despite the needs of any beneficiary or if the beneficiaries of the respective Trusts cannot otherwise agree, then upon an order of a Court authorizing and directing said sale of real property as petitioned by one or more of said beneficiaries with the Respondent being absolved for any liability for failure to sell assets where all four beneficiaries cannot or will not agree to said sale, and providing that said agreement is not binding upon any successor Trustee.

4. For attorney fees and costs in defending this action.
5. For such other and further relief as the Court may deem just and proper.

DATED this 8th day of May, 2008.

LUKINS & ANNIS, P.S.

By 
WILLIAM D. HYSLOP
ISB #7141
Attorneys for Respondent
WASHINGTON TRUST BANK

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8th day of May, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
P. O. Box 1005
Sandpoint, ID 83864-1339
Fax Number: (208) 263-4438
Attorney for: Teresa R. Blankship, Petitioner

<input checked="" type="checkbox"/>	U.S. Mail
<input type="checkbox"/>	Hand Delivered
<input type="checkbox"/>	Overnight Mail
<input checked="" type="checkbox"/>	Telecopy (FAX)


WILLIAM D. HYSLOP

ANSWER BY RESPONDENT
WASHINGTON TRUST BANK -

6

ORIGINAL

POWELL & REED, P.C.
Todd M. Reed, Attorney at Law
318 Pine Street
P.O. Box 1005
Sandpoint, Idaho 83864
Phone: (208) 263-3529
Fax: (208) 263-4438
ISB No. 4788

STATE OF IDAHO
COUNTY OF BONNER
CLERK

2008 MAY 22 A 9:32

Attorney for Petitioner

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

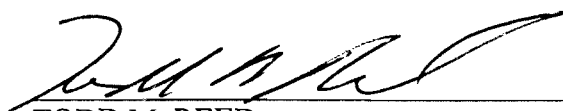
TERESA R. BLANKENSHIP:)	
	)	Case No.: CV 2007-00572
Petitioner,)	
vs.	)	MOTION TO AMEND PETITION
	)	AND CONTINUE TRIAL AND
WASHINGTON TRUST BANK,	)	NOTICE OF HEARING
as Trustee,)	
Respondent.)	
_____)	

COMES NOW, the Petitioner, TERESA R. BLANKENSHIP, and hereby moves this Court to allow the Amended Petition to be filed in this particular matter.

Additionally, Petitioner moves to continue the trial set for June 24 and 25, 2008, to allow for additional discovery to occur. Petitioner has been provided with documentation and in reviewing that documentation has discovered that the Trust has suffered financial loss.

Petitioner will provide testimony at time of hearing for both the amending of the petition, as well as the Motion to Continue the trial.

DATED this 21 day of May, 2008.




TODD M. REED
Attorney for Petitioner

NOTICE OF HEARING

Notice is hereby given that the Petitioner, TERESA BLANKENSHIP, by and through her attorney of record, Todd M. Reed, will call on for hearing the foregoing Motion before the Honorable John T. Mitchell, District Judge of the above Court, **on the 10th day of June, 2008, at the hour of 4:00 p.m.**, or as soon thereafter as it may be heard at the Courthouse in Coeur d'Alene, Idaho, at which time Petitioner will provide oral argument and testimony.

DATED this 21 day of May, 2008.



TODD M. REED
Attorney for Petitioner

CERTIFICATE OF SERVICE

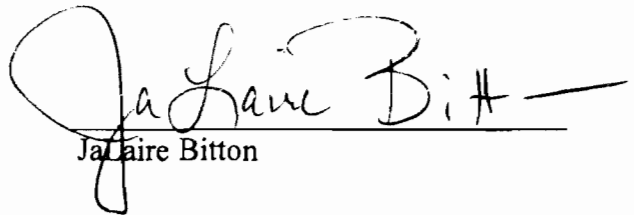
I hereby certify that on this 21 day of May, 2008, I served a true and correct copy of the foregoing on the individuals listed below, by the following method:

Mr. William D. Hyslop
Lukins & Annis, PS
717 West Sprague Avenue, Suite 1600
Spokane, Washington 99201-0466

☐ U.S. Mail, postage prepaid
☐ Hand Delivered
☒ Overnight mail
☐ Faxed (509)747-2323

James Theodore Diehl
Attorney at Law
106 West Superior Street
Sandpoint, Idaho 83864

☐ U.S. Mail, postage prepaid
☐ Hand Delivered
☒ Overnight mail
☐ Faxed (208) 263-8983


Jaire Bitton

2008 JUN -3 A 10:46

WILLIAM D. HYSLOP
ISB# 7141
PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS, P.S.
Ste 102
250 Northwest Blvd
Coeur d'Alene, ID 83814-2971
Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

Attorneys for Respondent
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

v.

WASHINGTON TRUST BANK, as trustee,

Respondent.

NO. CV-2007-00572

WASHINGTON TRUST BANK'S
RESPONSE TO PETITIONER'S MOTION
TO AMEND PETITION AND MOTION
TO CONTINUE TRIAL

WASHINGTON TRUST BANK (WTB) files this response to Petitioner TERESA R. BLANKENSHIP's 'Motion to Amend Petition and Continue Trial' served on May 21, 2008.

WTB has no objection to the filing of an Amended Petition by Petitioner as long as the Court grants Petitioner's Motion to Continue the Trial. If the Court denies Petitioner's Motion to Continue the Trial, then WTB objects to Petitioner's Motion to Amend Petition. The grounds for this objection are an amendment of this nature, which adds an entirely new cause of action

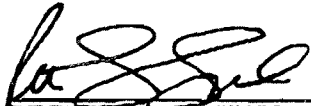
WASHINGTON TRUST BANK'S RESPONSE TO PETITIONER'S MOTION
TO AMEND PETITION AND MOTION TO CONTINUE TRIAL: 1

for damages, is impossible to respond to without further discovery. Further discovery is not feasible in the time before the scheduled trial.

WTB requests an opportunity to present oral argument and testimony at the hearing for Petitioner's Motion to Amend Petition and Continue Trial.

DATED this ^{3rd} 2nd day of June, 2008.

LUKINS & ANNIS, P.S.

By 
PETER J. SMITH IV
ISB #6997
Attorneys for Respondent
WASHINGTON TRUST BANK

WASHINGTON TRUST BANK'S RESPONSE TO PETITIONER'S MOTION
TO AMEND PETITION AND MOTION TO CONTINUE TRIAL: 2

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3rd day of June, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
P. O. Box 1005
Sandpoint, ID 83864-1339
Fax Number: (208) 263-4438
Attorney for: Teresa R. Blankship, Petitioner

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy (FAX)

Courtesy Copy to Chambers of:
The Honorable John T. Mitchell
Kootenai County District Court
324 W Garden
P. O. Box 9000
Coeur d'Alene, ID 83816-9000
Fax Number: (208) 446-1132

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy (FAX)



PETER J. SMITH IV

WASHINGTON TRUST BANK'S RESPONSE TO PETITIONER'S MOTION
TO AMEND PETITION AND MOTION TO CONTINUE TRIAL: 3

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POWELL REED

PAGE 82/84

2008 JUN 10 P 2:38

POWELL & REED, P.C.
Todd M. Reed, Attorney at Law
318 Pine Street
P.O. Box 1005
Sandpoint, Idaho 83864
Phone: (208) 263-3529
Fax: (208) 263-4438
ISB No. 4788

Attorney for Petitioner

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP:

Petitioner,

vs.

WASHINGTON TRUST BANK,
as Trustee,

Respondent.

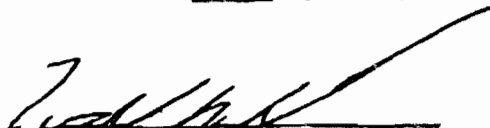
Case No.: CV 2007-00572

STIPULATION TO ALLOW AMENDED
PETITION AND CONTINUE TRIAL

COMES NOW, the Petitioner, TERESA R. BLANKENSHIP, by and through her attorney of record, Todd M. Reed and WASHINGTON TRUST BANK, by and through their attorney of record, Peter J. Smith IV and hereby stipulate to allow the Petitioner to file an Amended Petition with new causes of action.*

The parties also stipulate to continue the trial that is set for June 24 and 25, 2008.

DATED this 10th day of June, 2008.


TODD M. REED
Attorney for Petitioner


PETER J. SMITH, IV
Attorney for Petitioner

* If the trial scheduled for June 24 and 25, 2008 is not continued, Respondent objects to the filing of the Amend Petition by Petitioners on the grounds there is inadequate time to complete discovery.
STIPULATION TO ALLOW AMENDED PETITION AND CONTINUE TRIAL - 1

POWELL & REED, P.C.
Todd M. Reed, Attorney at Law
318 Pine Street
P.O. Box 1005
Sandpoint, Idaho 83864
Phone: (208) 263-3529
Fax: (208) 263-4438
ISB No. 4788

Attorney for Petitioner

STATE OF IDAHO
County of Bonner
FILED June 25, 2008
AT 10 O'Clock M
CLERK. DISTRICT COURT
Deputy dep

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: Bonner

2008 JUN 11 AM 7:59

CLERK DISTRICT COURT

DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER
MAGISTRATE DIVISION

TERESA R. BLANKENSHIP:

Petitioner,

vs.

WASHINGTON TRUST BANK,

as Trustee,

Respondent.

Case No.: CV 2007-00572

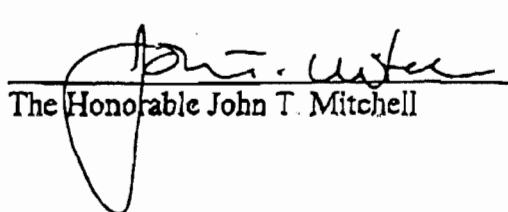
ORDER ALLOWING AMENDED
PETITION AND CONTINUING TRIAL

THIS MATTER having come before the Court by way of Stipulation of the parties and
good cause being shown:

IT IS HEREBY ORDERED that the Petitioner be allowed to file an Amended Petition
with new causes of action.

IT IS HEREBY FURTHER ORDERED that the trial that is set for June 24 and 25, 2008,
~~is vacated~~ is vacated and re-set to begin November 17, 2008 @ 9am

DATED this 10th day of June, 2008.


The Honorable John T. Mitchell

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST

2008 AUG 15 P 4: 54

HARRIS
CLERK DISTRICT COURT

MISCHELLE R. FULGHAM
ISB #4623
PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS, P.S.
Ste 102
250 Northwest Blvd
Coeur d'Alene, ID 83814-2971
Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

Attorneys for Respondent
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

v.

WASHINGTON TRUST BANK, as trustee,

Respondent.

NO. CV-2007-00572

MOTION TO REVOKE LEAVE TO FILE
AMENDED PETITION

Respondent, WASHINGTON TRUST BANK, hereby moves this Court pursuant to Rule 7, I.R.C.P., to revoke leave to Petitioner to file an Amended Petition. This motion is based upon the ground that Petitioner has delayed filing the Amended Petition for over two (2) months. This delay has prejudiced Respondent, WASHINGTON TRUST BANK, because the trial date is now less than 90 days away.

On June 10, 2008, this Court granted Petitioner's motion to file an Amended Petition. This motion was not opposed by Respondent. Prior to granting the order, Petitioner provided a

MOTION TO REVOKE LEAVE TO FILE AMENDED
PETITION: 1

proposed Amended Petition to Respondent. To date, Petitioner has not filed an Amended Petition.

Pursuant to this Court's Pretrial Order, Respondent's expert witnesses were to be disclosed on June 20, 2008. Respondent has not disclosed an expert witness because the Amended Petition has not been filed. An expert witness is not required unless the Amended Petition is filed.

Pursuant to this Court's Pretrial Order, all written discovery must be served on or before September 18, 2008. Since the Amended Petition has not been filed, Respondent has not served written discovery that directly pertains to the allegations of an Amended Petition. Respondent has served written discovery that generally refers to the allegations of a draft Amended Petition.

Pursuant to this Court's Pretrial Order all depositions must be noticed by September 18, 2008. Since the Amended Petition has not been filed, written discovery has not been propounded that specifically addresses the Amended Petition. Thus, the ability to take depositions is not feasible without answers to written discovery.

If Petitioner would have filed the Amended Petition soon after June 10, 2008, the Respondent could have adequately prepared to defend the new claims by retaining an expert witness, propounding written discovery, and conducting meaningful examinations of witnesses by way of deposition. Petitioner's delay has prevented this from taking place.

Due to the delay of Petitioner, she will likely ask this Court to continue the trial on this matter for the second time. She will likely claim she needs time to prepare prosecution of her case under the Amended Petition. However, the only reason this case is not ready to move

MOTION TO REVOKE LEAVE TO FILE AMENDED
PETITION: 2


forward is Petitioner's own fault. It should be noted that no continuance will be necessary if the Amended Petition is not filed. Respondent is ready to proceed to trial.

As a result, Respondent requests that this Court immediately order that the leave granted to file the Amended Petition be revoked.

This motion is supported by the Affidavit of William D. Hyslop and Peter Smith IV, which are filed herewith.

DATED this 15th day of August, 2008.

LUKINS & ANNIS, P.S.

By 
MISCHELLE R. FULGHAM
ISB #4623
PETER J. SMITH IV
ISB #6997
Attorneys for Respondent
WASHINGTON TRUST BANK

MOTION TO REVOKE LEAVE TO FILE AMENDED
PETITION: 3

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15th day of August, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
Post Office Box 1005
Sandpoint, Idaho 83864-1339
Attorney for Teresa R. Blankenship, Petitioner

<input checked="" type="checkbox"/>	U.S. Mail
<input type="checkbox"/>	Hand Delivered
<input type="checkbox"/>	Overnight Mail
<input type="checkbox"/>	Telecopy (FAX) to (208) 263-4438



PETER J. SMITH IV

MOTION TO REVOKE LEAVE TO FILE AMENDED
PETITION: 4

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT

2008 AUG 18 A 8:49

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

MISCHELLE R. FULGHAM
ISB #4623
PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS, P.S.
Ste 102
250 Northwest Blvd
Coeur d'Alene, ID 83814-2971
Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

Attorneys for Respondent
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

v.

WASHINGTON TRUST BANK, as trustee,

Respondent.

NO. CV-2007-00572


SUBSTITUTION OF COUNSEL

NOTICE IS HEREBY GIVEN that MISCHELLE R. FULGHAM AND PETER J. SMITH IV, of the firm of Lukins & Annis, P.S., are hereby substituting as attorneys of record for Respondent in place of WILLIAM D. HYSLOP and said party further requests that all further pleadings in this matter be served upon MISCHELLE R. FULGHAM AND PETER J. SMITH IV, of Lukins & Annis, P.S., The Coeur d'Alene North, 250 Northwest Boulevard, Suite 102, Coeur d'Alene, Idaho 83814, as its attorneys of record in this matter.

SUBSTITUTION OF COUNSEL: 1

DATED this 15th day of August, 2008.

LUKINS & ANNIS, P.S.


By 
PETER J. SMITH IV
ISB #6997
Attorneys for Respondent
WASHINGTON TRUST BANK

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15th day of August, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
Post Office Box 1005
Sandpoint, Idaho 83864
Attorney for Petitioner

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy (FAX) (208) 263-4438


PETER J. SMITH IV

SUBSTITUTION OF COUNSEL: 2

NAME STANLEY
CLERK DISTRICT CL

3. On June 10, 2008, this Court rescheduled the date of the trial in this matter to November 17-18, 2008.

4. The Court's order for continuance also granted leave to Petitioner to file an Amended Petition, but it did not set a time frame for it to be filed.

5. I was in a jury trial between June 23 and July 9, 2008. I saw Petitioner's Counsel, Todd Reed, at the Bonner County Courthouse on a couple occasions. On one such occasion, I inquired of Mr. Reed if he had filed the Amended Petition. He stated it was filed.

6. Subsequently, it was determined that the Amended Petition had not been filed.

7. On August 5, 2008, I sent a letter to Mr. Reed requesting a response to a number of questions, including whether he intended to file the Amended Petition. A copy of the letter is attached hereto as Exhibit "1".

8. Mr. Reed did not respond to me.

9. As of August 15, 2008, Petitioner has not filed the Amended Petition, and it is unclear whether Petitioner will be filing the Amended Petition at all.

10. As of August 15, 2008, Respondent has not received a filed copy of the Amended Petition. The Pretrial Order requires that all discovery be served on or before September 18, 2008. There certainly is sufficient time to prepare this matter for trial if the claims before the Court are those contained in the original Petition.

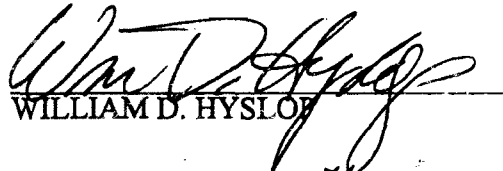
11. However, if the issues contained in the Amended Petition are to be tried, it is simply impractical for the parties to be ready for trial. This being said, the only reason the

AFFIDAVIT OF WILLIAM D. HYSLOP: 2

issues in the Amended Petition cannot be tried is because the Petitioner has delayed filing of the Amended Petition.


12. At this point, the Court should revoke the leave granted to file the Amended Petition, and require the parties to proceed with this matter on the original Petition.

DATED this 15th day of August, 2008.


WILLIAM D. HYSLOP

SUBSCRIBED AND SWORN TO (or affirmed) before me this 15th day of August, 2008.




Notary Public (Signature)
Rita E. Joyce
(Print Name)

My appointment expires: 6/6/2010

AFFIDAVIT OF WILLIAM D. HYSLOP: 3

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15th day of August, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
Post Office Box 1005
Sandpoint, Idaho 83864
Attorney for Petitioner

<input checked="" type="checkbox"/>	U.S. Mail
<input type="checkbox"/>	Hand Delivered
<input type="checkbox"/>	Overnight Mail
<input type="checkbox"/>	Telecopy (FAX) (208) 263-4438



PETER J. SMITH IV

AFFIDAVIT OF WILLIAM D. HYSLOP: 4

August 5, 2008

WILLIAM D. HYSLOP
Admitted In: Washington

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
P. O. Box 1005
Sandpoint, ID 83864-1339

Re: Teresa Blankenship vs. Washington Trust Bank, District Court for the First Judicial
District, Bonner county Cause No. 2007-00572

Dear Todd:

Enclosed is a letter addressed to Eric Bowman, Ryan Bowman, Ted Diehl and you regarding the four trusts and Teresa Blankenship's Petition. Please review this with your client and respond as soon as possible.

It appears that you have not ever filed or served an Amended Petition in this matter. We have written to you on this previously, but have received no response. Unless and until that Amended Petition is filed and served on counsel, we will assume that you have decided to forgo pursuit of any Amended Petition. If this is not correct for any reason, please advise immediately. If you elect to file the Amended Petition later, we reserve the right to ask the Court to reject that Amended Petition for not being timely and/or to further continue this matter to allow proper discovery on any issues that may be raised.

Our records reflect that Ms. Blankenship's responses to the written discovery requests propounded for the Bank will be due on August 8, 2008. Please advise whether or not you will be providing those responses and the requested records on a timely basis. We need to see those responses before taking Ms. Blankenship's deposition and before scheduling other discovery in this case.

In that regard, we would like to schedule Ms. Blankenship's deposition for a day in the latter half of August to be held at our Lukins & Annis office in Coeur d'Alene. Please advise available dates for this to occur in order that we may get this scheduled on a timely basis.

Peter Smith wrote to you previously about extending the time for the disclosure of expert witnesses in this matter. His letter asked for a response by July 18, 2008, but we have not heard from you. Please provide us with your response by August 8, 2008 or we will file a motion with the Court seeking an amendment of the scheduling order in this regard.



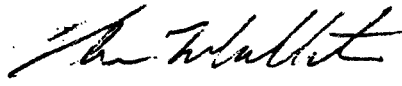
Todd M. Reed
August 5, 2008
Page 2

As discussed in the attached letter, we would like to see if this matter can be resolved amicably. The best time for that to occur would be before either Ms. Blankenship or the Bank expends substantial additional funds for litigation. The enclosed letter asks for a meeting of the four beneficiaries of the four trusts. We would like to schedule that meeting after Ms. Blankenship provides the written discovery responses and before Ms. Blankenship's deposition. Please advise as to whether Ms. Blankenship and you would participate in such a meeting.

The enclosed letter also advises that the Bank would be willing to mediate this matter if any outstanding issues cannot be resolved in the above referenced meeting. Ms. Blankenship and the Bank would agree to share equally the cost of the neutral mediator. As discussed in the attached letter, it may be beneficial for all four beneficiaries to participate in any mediation if the terms of settlement relate to a successor trustee for all four trusts. Please advise Ms. Blankenship position on this as well.

May we please hear back from you on these issues as soon as possible.

Very truly yours,


for WILLIAM D. HYSLOP

WDH:wdh

Enclosure

cc: Washington Trust Bank

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2008 AUG 15 P 4: 54

PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS, P.S.
Ste 102
250 Northwest Blvd
Coeur d'Alene, ID 83814-2971
Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

Attorneys for Defendant
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

NO. CV-2007-00572

v.

AFFIDAVIT OF PETER J. SMITH

WASHINGTON TRUST BANK, as trustee,

Respondent.

STATE OF IDAHO)
 :SS
County of Kootenai)

COMES NOW, PETER J. SMITH IV, being first duly sworn, deposes on his oath and states as follows:

1. I am one of the attorneys of record for the Respondent in this particular matter.
2. I hereby make this Affidavit based upon my own personal knowledge.
3. On June 10, 2008, this Court rescheduled the date of the trial in this matter to

November 17-18, 2008.

AFFIDAVIT OF PETER J. SMITH: 1

4. Pursuant to the Court's Pretrial Order, not later than one hundred eighty (180) days before trial, Petitioner was required disclose all experts to be called at trial. Not later than one hundred fifty (150) days before trial, Respondent was required disclose all experts to be called at trial.

5. Upon rescheduling of the trial date, the date for disclosure of Petitioner's experts was May 21, 2008 (which had already passed when the order rescheduling the trial was issued) and the date for disclosure of Respondent's experts was June 20, 2008.

6. In addition to rescheduling the trial, the Court also granted leave to Petitioner to file an Amended Petition seeking damages.

7. Respondent was not able to disclose its expert(s) by June 20, 2008 because the time frame to disclose such an expert was too short and Respondent was awaiting a copy of the filed Amended Petition.

8. On July 8, 2008, I sent a letter to Mr. Reed asking whether he had filed the Amended Petition. This letter followed up on my co-counsel, William D. Hyslop's conversation with Mr. Reed where he stated that the Amended Petition had been filed. A true and correct copy of said letter is attached hereto as Exhibit "1".

9. I received no response to my letter of July 8, 2008.

10. Due to the fact that Petitioner appeared ready to file an Amended Petition, I attempted to reach a stipulation with Petitioner's Counsel, Todd Reed, regarding extending the dates of disclosure of experts.

AFFIDAVIT OF PETER J. SMITH: 2

11. On July 16, 2008, I sent a letter to Petitioner's Counsel, Todd Reed, with a proposed Stipulation and Order amending the Scheduling Order to allow sufficient time for both parties to disclose their expert(s). A true and correct copy of said letter is attached hereto as Exhibit "2".

12. This letter was sent both by U.S. Mail and email. The email was sent to treed@sandpointlegal.com, Mr. Reed's email address listed in the Idaho State Bar Attorney Directory. A true and correct copy of said directory listing is attached hereto as Exhibit "3".

13. The letter provided that Mr. Reed was to respond on or before July 18, 2008.

14. Mr. Reed did not respond.

15. On August 4, 2008, I sent an email to Mr. Reed regarding the proposed stipulation and order. A true and correct copy is attached hereto as Exhibit "4".

16. Mr. Reed did not respond.

17. On August 6, 2008, I sent another email to Mr. Reed. A true and correct copy is attached hereto as Exhibit "5".

18. Mr. Reed did not respond.

19. On August 8, 2008, I called Mr. Reed's office. The receptionist in his office informed me that he had left the office. I left a message with the receptionist to have Mr. Reed call me as soon as possible.

20. Mr. Reed did not respond.

AFFIDAVIT OF PETER J. SMITH: 3

21. Also on August 8, 2008, I followed up with a letter to Mr. Reed requesting that he respond to me regarding the Amended Petition. A true and correct copy is attached hereto as Exhibit "6".

22. On August 11, 2008, I spoke with Mr. Reed regarding the Amended Petition. He stated he believed it had been filed. He also stated if it was not filed he would do so.

23. On August 13, 2008, I again spoke with Mr. Reed. We did not discuss the Amended Petition.

24. As August 15, 2008, Respondent has not received a filed copy of the Amended Petition. The Pretrial Order requires that all discovery be served on or before September 18, 2008. There certainly is sufficient time to prepare this matter for trial if the claims before the Court are those contained in the original Petition.

25. However, if the issues contained in the Amended Petition are to be tried, it is simply impractical for the parties to be ready for trial. This being said, the only reason the issues in the Amended Petition cannot be tried is because the Petitioner has delayed filing of the Amended Petition.

AFFIDAVIT OF PETER J. SMITH: 4


26. At this point, the Court should revoke the leave granted to file the Amended Petition, and require the parties to proceed with this matter on the original Petition.

DATED this 15th day of August, 2008.


PETER J. SMITH IV

SUBSCRIBED AND SWORN TO (or affirmed) before me this 15 day of August, 2008.




Notary Public (Signature)
Angela Marie Brown
(Print Name)

My appointment expires: 1-31-14

AFFIDAVIT OF PETER J. SMITH: 5

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the ^{15th}~~1st~~ day of August, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
Post Office Box 1005
Sandpoint, Idaho 83864
Attorney for Petitioner

<input checked="" type="checkbox"/>	U.S. Mail
<input type="checkbox"/>	Hand Delivered
<input type="checkbox"/>	Overnight Mail
<input type="checkbox"/>	Telecopy (FAX) (208) 263-4438



PETER J. SMITH IV

AFFIDAVIT OF PETER J. SMITH: 6

LUKINS&ANNIS | ATTORNEYS

20 Northwest Blvd., Suite 102
Coeur d'Alene, ID 83814-2971
t 208-667-0517
f 208-664-4125 lukins.com

July 8, 2008

VIA FACSIMILE (208) 263-4438

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
P. O. Box 1005
Sandpoint, ID 83864-1339

PETER J. SMITH IV
Attorney
Admitted In: Idaho
psmith@lukins.com
Direct Dial: (208) 666-4108

Re: Blankenship v. Washington Trust Bank
Amended Petition

Dear Todd:

I understand that you saw Bill Hyslop at the Bonner County Courthouse and he inquired whether you had filed your Amended Petition. I understand you told him that you had indeed filed the Amended Petition. We have checked with the Court, and the Amended Petition has not been filed.

Please advise whether you intend to proceed with the Amended Petition. Please provide us with a conformed copy of that Amended Petition if and when it is filed with the Court. We have discovery in this case which must occur and which will be based upon the allegations of the Amended Petition. We need to know whether your clients are intending on proceeding with that Amended Petition and we need to see the same in order to conduct the necessary discovery in this matter.

Very truly yours,



PETER J. SMITH IV

PJS:pjs

cc: Bill Hyslop (via email)
Client (via email)



CONFIDENTIAL**PRIVILEGED**

IF THERE ARE PROBLEMS WITH THIS TRANSMISSION, PLEASE CALL:
(208) 667-0517

TO	COMPANY	TELEPHONE NO.	FAX. NO.
Todd M. Reed	Powell & Reed, P.C.	(208) 263-3529	(208) 263-4438
<hr/>			
FROM	Peter Smith	Date	July 8, 2008
Pages (Including Cover Sheet)		Client No.	
Return to			
	Name		Ext.

MESSAGE:Sent By: Angie

7/8/08

THIS FAX CONTAINS CONFIDENTIAL, PRIVILEGED INFORMATION INTENDED ONLY FOR THE ADDRESSEE. DO NOT READ, COPY, OR DISSEMINATE IT UNLESS YOU ARE THE ADDRESSEE. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE CALL US (COLLECT) AT (208) 667-0517 AND MAIL THE ORIGINAL MESSAGE VIA U.S. POSTAL SERVICE TO US AT THE ABOVE ADDRESS.

July 16, 2008

VIA E-MAIL treed@sandpointlegal.com

VIA U.S. MAIL

PETER J. SMITH IV
Attorney
Admitted In: Idaho
psmith@lukins.com
Direct Dial: (208) 666-4108

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
P. O. Box 1005
Sandpoint, ID 83864-1339

Re: Blankenship v. Washington Trust Bank
Expert Witnesses

Dear Todd:

Under the Court's Pretrial Scheduling Order, Expert Witness Disclosures were due before the Court even provided us an amended Trial Date. We propose an agreement to amend the Pretrial Scheduling Order filed December 11, 2007 to allow time for both parties to disclose experts.

Enclosed with this letter is a proposed Stipulation and Order. If they are acceptable, please file the same with the Court and return conformed copies to us. If we do not hear from you or receive conformed copies by Friday, July 18th, we will file a motion requesting an amendment to the Pretrial Scheduling Order.

Thank you for your anticipated cooperation.

Very truly yours,



PETER J. SMITH IV

PJS:pjs

Enclosures

cc: Client, WDH



WILLIAM D. HYSLOP
ISB #7141
PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS, P.S.
Ste 102
250 Northwest Blvd
Coeur d'Alene, ID 83814-2971
Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

Attorneys for Respondent
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

v.

WASHINGTON TRUST BANK, as trustee,

Respondent.

NO. CV-2007-00572

ORDER TO AMEND PRETRIAL
SCHEDULING ORDER

With consideration being given to the agreements reached by the parties as set forth in
the Stipulation of the parties and the Court being full advised in the premises,

NOW THEREFORE, IT IS HEREBY ORDERED that the Scheduling Order dated
December 11, 2007 shall be amended as follows:

The Petitioner shall disclose expert witnesses and the expected testimony of those
witnesses on or before August 15, 2008.

ORDER TO AMEND PRETRIAL SCHEDULING
ORDER: 1

The Respondent shall disclose expert witnesses and the expected testimony of those witnesses on or before September 15, 2008.

All supplemental expert witness reports shall be disclosed on or before October 15, 2008.

Those portions of the Scheduling Order not amended by this Stipulation shall remain in full force and effect.

The undersigned attorneys of record approve the contents of the Order submitted along with this Stipulation and hereby stipulate that it may be entered by the Court without further notice.

DATED this ____ day of July, 2008.

By _____
JOHN T. MITCHELL
DISTRICT JUDGE

ORDER TO AMEND PRETRIAL SCHEDULING
ORDER: 2

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the _____ day of _____, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Peter J. Smith IV
250 Northwest Blvd., Suite 102
Coeur d'Alene, Idaho 83814
Attorney for Respondent

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (FAX) 208-664-4125

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
P. O. Box 1005
Sandpoint, ID 83864-1339
Attorney for Petitioner

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (FAX) 208-263-4438

Deputy Clerk

ORDER TO AMEND PRETRIAL SCHEDULING

ORDER: 3

WILLIAM D. HYSLOP
ISB #7141
PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS, P.S.
Ste 102
250 Northwest Blvd
Coeur d'Alene, ID 83814-2971
Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

Attorneys for Respondent
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

v.

WASHINGTON TRUST BANK, as trustee,

Respondent.

NO. CV-2007-00572

STIPULATION TO AMEND PRETRIAL
SCHEDULING ORDER

The parties hereby agree that the Scheduling Order dated December 11, 2007 may be amended as follows:

The Petitioner shall disclose expert witnesses and the expected testimony of those witnesses on or before August 15, 2008.

The Respondent shall disclose expert witnesses and the expected testimony of those witnesses on or before September 15, 2008.

STIPULATION TO AMEND PRETRIAL SCHEDULING
ORDER: 1

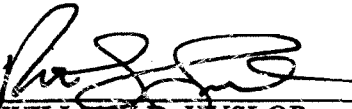
All supplemental expert witness reports shall be disclosed on or before October 15, 2008.

Those portions of the Scheduling Order not amended by this Stipulation shall remain in full force and effect.

The undersigned attorneys of record approve the contents of the Order submitted along with this Stipulation and hereby stipulate that it may be entered by the Court without further notice.

DATED this ____ day of July, 2008.

LUKINS & ANNIS, P.S.

By 
WILLIAM D. HYSLOP
ISB# 7141
PETER J. SMITH IV
ISB #6997
Attorneys for Respondent
WASHINGTON TRUST BANK

DATED this ____ day of July, 2008.

POWELL & REED

By _____
TODD M. REED
Attorneys for Petitioner
TERESA R. BLANKENSHIP

STIPULATION TO AMEND PRETRIAL SCHEDULING
ORDER: 2

Idaho State Bar Association

Attorney Roster Search

Please type the full last name of the attorney you are trying to find. Capitalization does not matter, but spelling does. If you cannot find the attorney you are looking for, contact the [Membership Department](#) at (208) 334-4500.

If you have a legal matter and need assistance finding an attorney to handle it, please visit our [Online Lawyer Referral Service](#).

Last Name

Attorney Roster Search Results as of 8/8/08

Name: Angela Michelle Reed
Address: PO Box 2720, Boise, ID 83701
Firm: Givens Pursley LLP
Phone: (208) 388-1200 Ext:
Fax: (208) 388-1300
E-Mail Address:
Website Address: www.givenspursley.com
ISB Membership Number: 7221
Admittance Date: 9/20/2006
Current Status: Active

Name: Randall Blaine Reed
Address: MAC 84101-142, 100 W. Washington, Phoenix, AZ 85003
Firm: Wells Fargo Bank
Phone: (602) 378-7898 Ext:
Fax: (602) 378-4420
E-Mail Address: rreed@wellsfargo.com
Website Address:
ISB Membership Number: 2837
Admittance Date: 9/24/1982
Current Status: Out of State Active

Name: Scott White Reed
Address: PO Box 4, Coeur d'Alene, ID 83814
Firm:
Phone: (208) 864-2181 Ext:
Fax: (208) 786-5117
E-Mail Address: scotthered@imtribe.com
Website Address:
ISB Membership Number: 818
Admittance Date: 6/16/1968
Current Status: Active

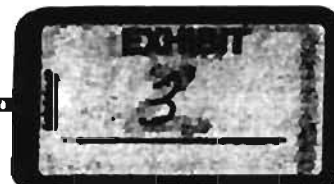
Name: Todd Mathew Reed
Address: PO Box 1005, Sandpoint, ID 83864
Firm: Powell & Reed, PC
Phone: (208) 263-3529 Ext:
Fax: (208) 263-4438
E-Mail Address: treed@sandpointlegal.com
Website Address:
ISB Membership Number: 4788
Admittance Date: 8/23/1993
Current Status: Active

The information above is based on the Idaho State Bar records as of the date listed above. To send us an update on your own listing, please [Click Here](#). Please notify the [Membership Department](#) if you find that another attorney's information is incorrect. Questions on attorney status and good standing should also be directed to the [Membership Department](#) at (208) 334-4500.

[Click Here](#) for Current Status definitions.

Contact the [Bar Counsel's Office](#) at (208) 334-4500 to request a disciplinary history on an attorney.

If you cannot find the attorney you are looking for, do not assume that he or she is not an Idaho attorney. Please contact the [Membership Department](#) at (208) 334-4500 for a more thorough check of the records.



Information on former members of the Idaho State Bar is limited to name, admission date and status. The online records include former members going back to approximately 1994. Records on former members from before 1994 are not available online. Please contact the [Membership Department](#) for more information on former members.

[Idaho State Bar Home](#) | [Contact Us](#) | [Search](#) | [Access Idaho](#)

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From: Peter Smith
To: treed@sandpointlegal.com
Date: 8/4/2008 12:00 PM
Subject: Blankenship v. Washington Trust Bank

Todd,

I am following up on my letter with a propose stipulation regarding the disclosure of expert witnesses. I have a hearing scheduled for September 8, 2008 for a motion to amend the pretrial order to give us more time to disclose an expert. Will we need to have the hearing or can we stipulate to disclosure dates?

I look forward to hearing from you.

Peter J. Smith IV
Attorney at Law
Lukins & Annis, P.S.
P 208.667.0517
F 208.664.4125



From: Peter Smith
To: treed@sandpointlegal.com
Date: 8/6/2008 11:40 AM
Subject: Re: Blankenship v. Washington Trust Bank

Todd,

I am wondering if you got my email. The date of the hearing is actually September 9th. Please advise.

Peter J. Smith IV
Attorney at Law
Lukins & Annis, P.S.
P 208.667.0517
F 208.664.4125

>>> Peter Smith 8/4/2008 12:00 PM >>>
Todd,

I am following up on my letter with a propose stipulation regarding the disclosure of expert witnesses. I have a hearing scheduled for September 8, 2008 for a motion to amend the pretrial order to give us more time to disclose an expert. Will we need to have the hearing or can we stipulate to disclosure dates?

I look forward to hearing from you.

Peter J. Smith IV
Attorney at Law
Lukins & Annis, P.S.
P 208.667.0517
F 208.664.4125



August 8, 2008

VIA FACSIMILE (208) 263-4438

VIA U.S. MAIL

PETER J. SMITH IV

Attorney

Admitted In: Idaho

psmith@lukins.com

Direct Dial: (208) 666-4108

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
P. O. Box 1005
Sandpoint, ID 83864-1339

Re: Blankenship v. Washington Trust Bank
Kootenai County Case No. CV 07-572
Filing of Amended Petition

Dear Todd:

I spoke with your office this afternoon. Evidently, you were not in. I left a message for you call me at your earliest convenience. As of the writing of this letter, I have not received a response from you. This letter follows up my phone call today and:

- My letter of July 8, 2008 (sent via fax to your office) regarding the Amended Petition;
- My letter of July 16, 2008 (sent via U.S. Mail and email) regarding amending the Court's pretrial order;
- My email of August 4, 2008 regarding amending the Court's pretrial order;
- Mr. Hyslop's letter of August 5, 2008 (sent via U.S. Mail) regarding the amended Petition and amending the pretrial order;
- My email of August 6, 2008 regarding amending pretrial order;
- My email of August 8, 2008 regarding amending the pretrial order.

All of which you have refused to respond to.

We also have not received your responses to Interrogatories and Requests for Production. If they are not received today, we will file a motion to compel on Monday morning.

As to Mr. Hyslop's letter dated August 5, 2008. In that letter, Mr. Hyslop questioned whether you actually intended to file the Amended Petition. It asked to respond immediately if you



Todd M. Reed
August 8, 2008
Page 2

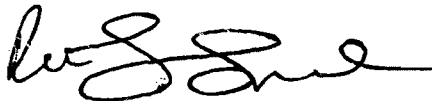
intended to file the Amended Petition, we still have not heard from you. As you know, the Court entered the order to allow you to file the Amended Petition on June 10, 2008. Now, nearly two months later, it is still not filed. This is despite your representation to Mr. Hyslop that it was filed when he saw you at the Bonner County Courthouse nearly six weeks ago and numerous requests from this office as to whether you intended to file it.

Your delay in filing the Amended Petition is prejudicial to Washington Trust Bank. This case is set for trial on November 17-18, 2008. To defend the causes of action contained in the proposed Amended Petition, Washington Trust Bank would have to conduct discovery (including taking deposition of your client) and retain Expert Witness(es).

As things stand, we are moving forward under the original Petition. Under the original Petition, there is no dispute. Washington Trust Bank has agreed to withdraw as Trustee.

At this point, if you do file the Amended Petition we will oppose the filing on the grounds that you intentionally delayed filing it to cause prejudice to Washington Trust Bank. In particular, your delay has left Washington Trust Bank inadequate time before trial to conduct discovery, and hire appropriate Expert Witness(es). Furthermore, we will not agree to reschedule the trial given the only reason it would be delayed is your failure to file the Amended Petition and respond to inquiries from us.

Very truly yours,



PETER J. SMITH IV

PJS:pjs

cc: Washington Trust Bank
Tom Culbertson (via email)
Bill Hyslop (via email)

 *** TX REPORT ***

TRANSMISSION OK

TX/RX NO 3690
 CONNECTION TEL 12082634438
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 CONNECTION ID
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 RESULT OK

LUKINS&ANNIS | ATTORNEYS

LD. NO.

250 Northwest Blvd., Suite 102
 Coeur d'Alene, ID 83814-2971
 t 208 667-0517
 f 208 664-4125 lukins.com

CONFIDENTIAL

PRIVILEGED

Admitted by Idaho
 psmith@lukins.com
 Direct Dial: (208) 666-4108
 Peter J. Smith IV
 Attorney

IF THERE ARE PROBLEMS WITH THIS TRANSMISSION, PLEASE CALL:
 (208) 667-0517

TO	COMPANY	TELEPHONE NO.	FAX. NO.
Todd M. Reed	Powell & Reed, P.C.	(208) 263-3529	(208) 263-4438

FROM	Peter J. Smith IV	Date	August 8, 2008
Pages (Including Cover Sheet)	3	Client No.	
Return to			

Name

Ext.

MESSAGE: Blankenship v. Washington Trust Bank letter

Sent By: angie

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT

2008 AUG 20 A 8:04

MARIE SCOTT
CLERK DISTRICT COURT

40
DEPUTY

MISCHELLE R. FULGHAM
ISB #4623
PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS, P.S.
Ste 102
250 Northwest Blvd
Coeur d'Alene, ID 83814-2971
Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

Attorneys for Respondent
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

v.

WASHINGTON TRUST BANK, as trustee,

Respondent.

NO. CV-2007-00572

MOTION TO REFER CASE TO
MEDIATION

WASHINGTON TRUST BANK, by its attorney, moves the Court pursuant to I.R.C.P.
Rule 16(k)(4)(A) for an order referring the above numbered and styled cause to mediation, and
shows the Court the following:

1. WASHINGTON TRUST BANK is the Respondent in the above numbered and
styled cause and is represented by Michelle R. Fulgham and Peter J. Smith IV of Lukins &

MOTION TO REFER CASE TO MEDIATION: 1

09/19/2008 10:34 FAX 206 404 4129
Annis, P.S. TERESA BLANKENSHIP is the Petitioner in this cause, and is represented by Todd M. Reed of Powell & Reed, P.S.

2. A Petition in this cause was served on defendant on or about July, 2007.

3. The following discovery in this cause has occurred: Petitioner has taken the depositions of Sue Kuzma and Diane Albrethson of Washington Trust Bank; Petitioner has subpoenaed documents from the property manager hired by Respondent; Respondent has served a First Set of Interrogatories and a First Set of Requests for Production on Petitioner (responses were due on August 8, 2008, but are expected on August 22, 2008).

4. Respondent asks the Court to take notice that the overwhelming percentage of all causes filed are ultimately resolved prior to judgment, and that the majority of those resolutions are by settlement.

5. Progress towards negotiation has been made by the parties, but without outside assistance, it appears to Respondent that a settlement cannot be reached.

6. In order to facilitate a negotiated settlement in the above numbered and styled cause, Respondent feels that the assistance of a neutral mediator would be beneficial to the parties to both narrow the outstanding issues involving the claims and defenses involved, and assist the parties in discussing possible settlement terms regarding the still-outstanding issues in controversy, and that mediation is the most appropriate alternative dispute resolution procedure.

7. It is the opinion of Respondent that without the assistance of a mediator, additional settlement negotiations regarding the outstanding issues will continue for an indeterminate length of time without reaching a resolution of those issues.

MOTION TO REFER CASE TO MEDIATION: 2

8. In consideration of the discovery set forth above, the parties have sufficient information to determine their settlement positions.


9. Neither party in this cause has filed, or is likely to file, a motion for summary judgment that would be successful in removing this cause from the trial docket, and no motion is anticipated that would dispose of this cause as a matter of law.

10. There is no issue of law that would prevent either party from reaching a fair and negotiated settlement of the issues in this cause.

WHEREFORE, Respondent requests that this Court issue an order referring the above numbered and styled cause to a mediator for mediation pursuant to I.R.C.P. Rule 16(k)(4)(A), that the order require the mediator to schedule and hold a mediation conference, and that the cost of the mediation be shared equally by the parties.

DATED this ^{19th} ~~18~~ day of August, 2008.

LUKINS & ANNIS, P.S.

By  ISBN 4023
PETER J. SMITH IV
ISBN #6997
Attorneys for Respondent
WASHINGTON TRUST BANK

MOTION TO REFER CASE TO MEDIATION: 3

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of August, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
Post Office Box 1005
Sandpoint, Idaho 83864-1339
Attorney for Teresa R. Blankenship, Petitioner

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (FAX) to (208) 263-4438


PETER J. SMITH IV

MOTION TO REFER CASE TO MEDIATION: 4

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT

2008 AUG 20 A 8:04

MARIE SCOTT
CLERK DISTRICT COURT

DEPUTY

MISCHELLE R. FULGHAM
ISB #4623
PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS, P.S.
Ste 102
250 Northwest Blvd
Coeur d'Alene, ID 83814-2971
Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

Attorneys for Respondent
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

v.

WASHINGTON TRUST BANK, as trustee,

Respondent.

NO. CV-2007-00572

MOTION TO REFER CASE TO
MEDIATION

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1. WASHINGTON TRUST BANK is the Respondent in the above numbered and styled cause and is represented by Michelle R. Fulgham and Peter J. Smith IV of Lukins &

MOTION TO REFER CASE TO MEDIATION: 1

Annis, P.S. TERESA BLANKENSHIP is the Petitioner in this cause, and is represented by Todd M. Reed of Powell & Reed, P.S.

2. A Petition in this cause was served on defendant on or about July, 2007.

3. The following discovery in this cause has occurred: Petitioner has taken the depositions of Sue Kuzma and Diane Albrethson of Washington Trust Bank; Petitioner has subpoenaed documents from the property manager hired by Respondent; Respondent has served a First Set of Interrogatories and a First Set of Requests for Production on Petitioner (responses were due on August 8, 2008, but are expected on August 22, 2008).

4. Respondent asks the Court to take notice that the overwhelming percentage of all causes filed are ultimately resolved prior to judgment, and that the majority of those resolutions are by settlement.

5. Progress towards negotiation has been made by the parties, but without outside assistance, it appears to Respondent that a settlement cannot be reached.

6. In order to facilitate a negotiated settlement in the above numbered and styled cause, Respondent feels that the assistance of a neutral mediator would be beneficial to the parties to both narrow the outstanding issues involving the claims and defenses involved, and assist the parties in discussing possible settlement terms regarding the still-outstanding issues in controversy, and that mediation is the most appropriate alternative dispute resolution procedure.

7. It is the opinion of Respondent that without the assistance of a mediator, additional settlement negotiations regarding the outstanding issues will continue for an indeterminate length of time without reaching a resolution of those issues.

MOTION TO REFER CASE TO MEDIATION: 2

8. In consideration of the discovery set forth above, the parties have sufficient information to determine their settlement positions.

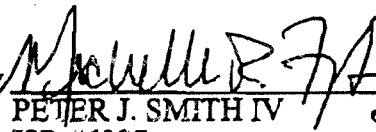
9. Neither party in this cause has filed, or is likely to file, a motion for summary judgment that would be successful in removing this cause from the trial docket, and no motion is anticipated that would dispose of this cause as a matter of law.

10. There is no issue of law that would prevent either party from reaching a fair and negotiated settlement of the issues in this cause.

WHEREFORE, Respondent requests that this Court issue an order referring the above numbered and styled cause to a mediator for mediation pursuant to I.R.C.P. Rule 16(k)(4)(A), that the order require the mediator to schedule and hold a mediation conference, and that the cost of the mediation be shared equally by the parties.

DATED this 18th day of August, 2008.

LUKINS & ANNIS, P.S.

By  ISBN 4023
PETER J. SMITH IV
ISB #6997
Attorneys for Respondent
WASHINGTON TRUST BANK

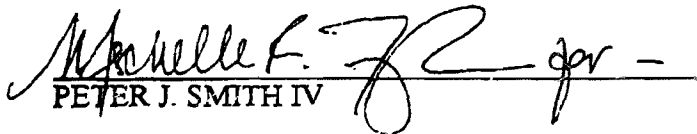
MOTION TO REFER CASE TO MEDIATION: 3

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of August, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
Post Office Box 1005
Sandpoint, Idaho 83864-1339
Attorney for Teresa R. Blankenship, Petitioner

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (FAX) to (208) 263-4438


PETER J. SMITH IV

MOTION TO REFER CASE TO MEDIATION: 4

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2008 AUG 26 A 11:45

MARIE JOON
CLERK DISTRICT COURT

MISCHELLE R. FULGHAM
ISB #4623
PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS, P.S.
Ste 102
250 Northwest Blvd
Coeur d'Alene, ID 83814-2971
Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

Attorneys for Respondent
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

v.

WASHINGTON TRUST BANK, as trustee,

Respondent.

NO. CV-2007-00572

MOTION TO COMPEL DISCOVERY

RELIEF SOUGHT

The Respondent moves, pursuant to I.R.C.P. Rule 37(a), for an Order requiring the Petitioner to answer the Interrogatories and to produce the documents requested in the Interrogatories and Requests for Production of Documents which were served upon Petitioner's attorney on the 9th day of July, 2008, pursuant to I.R.C.P. Rule 33 and Rule 34, which can be seen by the Notices of Service of Discovery of Interrogatories and Requests for Production of Documents filed with this Court on July 9, 2008.

MOTION TO COMPEL: 1

GROUND


The information and documents requested of the above-named Petitioner are both relevant and necessary for the Respondent in preparing its case for trial. More than 30 days have elapsed and the Petitioner has failed to respond to the Interrogatories and Requests for Production of Documents.

BASIS

This Motion is based on all records and files herein, and the Notices of Service of Discovery of Interrogatories and Requests for Production of Documents filed by Respondent on July 9, 2008, and the Affidavit of Peter J. Smith IV filed herewith.

DATED this 25th day of August, 2008.

LUKINS & ANNIS, P.S.

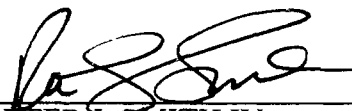
By 
PETER J. SMITH IV
ISB #6997
Attorneys for Respondent
WASHINGTON TRUST BANK

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25th day of August, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
Post Office Box 1005
Sandpoint, Idaho 83864
Attorney for Petitioner

<input checked="" type="checkbox"/>	U.S. Mail
<input type="checkbox"/>	Hand Delivered
<input type="checkbox"/>	Overnight Mail
<input checked="" type="checkbox"/>	Telecopy (FAX) (208) 263-4438


PETER J. SMITH IV

MOTION TO COMPEL: 2

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2008 AUG 26 A 11:45

MARIE CRANE
CLERK DISTRICT COURT

MISCHELLE R. FULGHAM
ISB #4623
PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS, P.S.
Ste 102
250 Northwest Blvd
Coeur d'Alene, ID 83814-2971
Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

Attorneys for Defendant
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

v.

WASHINGTON TRUST BANK, as trustee,

Respondent.

NO. CV-2007-00572

AFFIDAVIT OF PETER J. SMITH IN
SUPPORT OF MOTION TO COMPEL

STATE OF IDAHO)
 :SS
County of Kootenai)

COMES NOW, PETER J. SMITH IV, being first duly sworn, deposes on his oath and
states as follows:

1. I am one of the attorneys of record for the Respondent in this particular matter.
2. I hereby make this Affidavit based upon my own personal knowledge.

AFFIDAVIT OF PETER J. SMITH IN SUPPORT OF
MOTION TO COMPEL: 1

3. The Interrogatories and Requests for Production of documents were served upon attorneys for the Petitioner on July 9, 2008, pursuant to I.R.C.P. Rule 33 and Rule 34 as shown in Notices of Service of Discovery filed with this Court on July 9, 2008.

4. As all parties have been aware, this case is set for trial on November 17-18, 2008. The requested information and documents are necessary and proper matters of discovery to which the Respondent is entitled.

5. Given fact that trial is rapidly approaching, timely responses to discovery are crucial.

6. On Friday, August 8, 2008, I called Mr. Reed's office to discuss his discovery responses. The receptionist in his office informed me that he had left the office. I left a message with the receptionist to have Mr. Reed call me as soon as possible.

7. Also on Friday, August 8, 2008, I followed up with a letter to Mr. Reed requesting that he respond to me regarding discovery responses. A true and correct copy is attached hereto as Exhibit "1".

8. Mr. Reed did not respond to my letter and phone call until Tuesday, August 12, 2008.

9. On Tuesday, August 12, 2008, Mr. Reed informed me that he was unable to produce the discovery responses due to the fact he had been in Boise in trial. He requested an extension of time until Friday, August 22, 2008. After consultation with the client, the extension of time.

AFFIDAVIT OF PETER J. SMITH IN SUPPORT OF
MOTION TO COMPEL: 2

10. On Friday, August 22, 2008, Mr. Reed faxed a letter dated February 27, 2008 (but received on August 22, 2008) requesting another extension of time. This request asked for an extension until Friday, August 29, 2008 to serve responses to Respondent's discovery. A true and correct copy is attached as Exhibit "2".

11. We agreed to the extension on the condition that the motion to compel would be filed on Monday, August 25, 2008 and if complete responses were not received on or before Friday, August 29, 2008, we would go forward with the motion to compel. Mr. Reed was informed of this condition in a letter dated August 25, 2008. A true and correct copy is attached hereto as Exhibit "3".

12. I hereby certify that I have in good faith attempted to confer with Mr. Reed regarding the timeliness of discovery responses. Mr. Reed has been granted two (2) extensions. If complete responses are not received on Friday, August 29, 2008, we will proceed with a motion to compel.

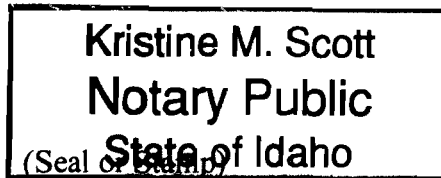
DATED this 25th day of August, 2008.



PETER J. SMITH IV

AFFIDAVIT OF PETER J. SMITH IN SUPPORT OF
MOTION TO COMPEL: 3

SUBSCRIBED AND SWORN TO (or affirmed) before me this 25th day of August, 2008.



Kristine M. Scott (Signature)
Kristine M. Scott (Print Name)

Mv appointment expires: 12/21/2010

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25th day of August, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
Post Office Box 1005
Sandpoint, Idaho 83864
Attorney for Petitioner

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy (FAX) (208) 263-4438

Peter J. Smith IV
PETER J. SMITH IV

AFFIDAVIT OF PETER J. SMITH IN SUPPORT OF
MOTION TO COMPEL: 4

August 8, 2008
VIA FACSIMILE (208) 263-4438
VIA U.S. MAIL

PETER J. SMITH IV
Attorney
Admitted In: Idaho
psmith@lukins.com
Direct Dial: (208) 666-4108

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
P. O. Box 1005
Sandpoint, ID 83864-1339

Re: Blankenship v. Washington Trust Bank
Kootenai County Case No. CV 07-572
Filing of Amended Petition

Dear Todd:

I spoke with your office this afternoon. Evidently, you were not in. I left a message for you call me at your earliest convenience. As of the writing of this letter, I have not received a response from you. This letter follows up my phone call today and:

- My letter of July 8, 2008 (sent via fax to your office) regarding the Amended Petition;
- My letter of July 16, 2008 (sent via U.S. Mail and email) regarding amending the Court's pretrial order;
- My email of August 4, 2008 regarding amending the Court's pretrial order;
- Mr. Hyslop's letter of August 5, 2008 (sent via U.S. Mail) regarding the amended Petition and amending the pretrial order;
- My email of August 6, 2008 regarding amending pretrial order;
- My email of August 8, 2008 regarding amending the pretrial order.

All of which you have refused to respond to.

We also have not received your responses to Interrogatories and Requests for Production. If they are not received today, we will file a motion to compel on Monday morning.

As to Mr. Hyslop's letter dated August 5, 2008. In that letter, Mr. Hyslop questioned whether you actually intended to file the Amended Petition. It asked to respond immediately if you

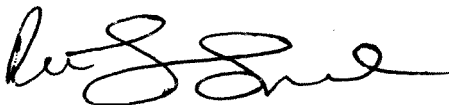
intended to file the Amended Petition, we still have not heard from you. As you know, the Court entered the order to allow you to file the Amended Petition on June 10, 2008. Now, nearly two months later, it is still not filed. This is despite your representation to Mr. Hyslop that it was filed when he saw you at the Bonner County Courthouse nearly six weeks ago and numerous requests from this office as to whether you intended to file it.

Your delay in filing the Amended Petition is prejudicial to Washington Trust Bank. This case is set for trial on November 17-18, 2008. To defend the causes of action contained in the proposed Amended Petition, Washington Trust Bank would have to conduct discovery (including taking deposition of your client) and retain Expert Witness(es).

As things stand, we are moving forward under the original Petition. Under the original Petition, there is no dispute. Washington Trust Bank has agreed to withdraw as Trustee.

At this point, if you do file the Amended Petition we will oppose the filing on the grounds that you intentionally delayed filing it to cause prejudice to Washington Trust Bank. In particular, your delay has left Washington Trust Bank inadequate time before trial to conduct discovery, and hire appropriate Expert Witness(es). Furthermore, we will not agree to reschedule the trial given the only reason it would be delayed is your failure to file the Amended Petition and respond to inquiries from us.

Very truly yours,



PETER J. SMITH IV

PJS:pjs

cc: Washington Trust Bank
Tom Culbertson (via email)
Bill Hyslop (via email)

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 3690
CONNECTION TEL 12082634438
SUBADDRESS
CONNECTION ID
ST. TIME 08/08 16:53
USAGE T 00'57
PGS. SENT 3
RESULT OK

LD. NO.

250 Northwest Blvd., Suite 102
Coeur d'Alene, ID 83814-7971
t 208 667-0517
f 208 664-4125 lukins.com

LUKINS&ANNIS | ATTORNEYS

CONFIDENTIAL

PRIVILEGED

Admitted In: Idaho
psmith@lukins.com
Direct Dial: (208) 666-4108
Peter J. Smith IV
Attorney

IF THERE ARE PROBLEMS WITH THIS TRANSMISSION, PLEASE CALL:
(208) 667-0517

TO	COMPANY	TELEPHONE NO.	FAX NO.
Todd M. Reed	Powell & Reed, P.C.	(208) 263-3529	(208) 263-4438

FROM	Peter J. Smith IV	Date	August 8, 2008
Pages (Including Cover Sheet)	3	Client No.	
Return to			

Name

Ext.

MESSAGE: Blankenship v. Washington Trust Bank letter

Sent By: angie

CONFIDENTIAL**PRIVILEGED**Admitted In: Idaho
psmith@lukins.com
Direct Dial: (208) 666-4108
Peter J. Smith IV
Attorney**IF THERE ARE PROBLEMS WITH THIS TRANSMISSION, PLEASE CALL:
(208) 667-0517**

TO	COMPANY	TELEPHONE NO.	FAX. NO.
Todd M. Reed	Powell & Reed, P.C.	(208) 263-3529	(208) 263-4438

FROM	Peter J. Smith IV	Date	August 8, 2008
Pages (Including Cover Sheet)	3	Client No.	
Return to			

Name	Ext.
------	------

MESSAGE: Blankenship v. Washington Trust Bank letterSent By: angie

8/8/08

THIS FAX CONTAINS CONFIDENTIAL, PRIVILEGED INFORMATION INTENDED ONLY FOR THE ADDRESSEE. DO NOT READ, COPY, OR DISSEMINATE IT UNLESS YOU ARE THE ADDRESSEE. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE CALL US (COLLECT) AT (208) 667-0517 AND MAIL THE ORIGINAL MESSAGE VIA U.S. POSTAL SERVICE TO US AT THE ABOVE ADDRESS.

POWELL & REED, P.C.
ATTORNEYS AT LAW

BRYCE W. POWELL*
TODD M. REED
SUZANNE M. FEGELEIN

318 PINE STREET
P.O. BOX 1005
SANDPOINT, IDAHO 83864-1339

TELEPHONE: (208) 263-3529
FAX: (208) 263-4438

*Also licensed in Montana

Via Facsimile (208) 666-4118

February 27, 2008

Mr. Peter J. Smith IV
Lukins & Annis, PS
250 Northwest Blvd., Suite 102
Coeur d'Alene, Idaho 83814-2971

Re: Teresa R. Blankenship vs. Washington Trust Bank
Bonner County Case No. CV 2007-00572
Discovery Issues

Dear Peter:

Thank you for your letter I received today. I apologize, I have been busy prepping for a two day trial on Monday and Tuesday. I had anticipated that the trial would be bumped by a preset trial, however that one recently settled and I have not had time to devote to your discovery. I will have our Associate working on it next week and would like an extension until Friday. I see that that does not jeopardize any pending Motions or matters of that nature. Thank you for your professional courtesy in this if at all possible.

Very truly yours,

POWELL & REED, P.C.


TODD M. REED
Attorney at Law

TMR/tew

EXHIBIT 2

PETER J. SMITH IV
Attorney
Admitted In: Idaho
psmith@lukins.com
Direct Dial: (208) 666-4108

August 25, 2008

VIA FACSIMILE (208) 263-4438
VIA U.S. MAIL

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
P. O. Box 1005
Sandpoint, ID 83864-1339

Re: Blankenship v. Washington Trust Bank
Teresa Blankenship's Discovery Responses

Dear Todd:

Thank you for your letter. Your letter was incorrectly dated February 28, 2008; it was received via fax on August 22, 2008.

In your letter, you requested an extension to serve responses to Washington Trust Bank's discovery requests. These requests were originally served on July 9, 2008. Responses were due on August 8, 2008. An extension to respond until August 22, 2008 was granted on August 12, 2008. On August 22, 2008, you requested another extension until August 29, 2008 due to the fact you were headed into trial on August 25-26, 2008.

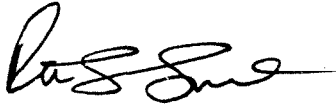
My client agreed to grant you an extension to serve the discovery responses until August 29, 2008. Please note that there will be no more extensions. To protect our client, we will be filing a motion to compel today. If the discovery responses are served on August 29, 2008, we will withdraw the motion and vacate the hearing. However, if complete discovery responses are not served on or before August 29, 2008, we will proceed with the hearing on the motion to compel on September 9, 2008. We will seek fees and costs incurred in preparing this motion and attending the hearing.

EXHIBIT 3

Todd M. Reed
August 25, 2008
Page 2

In addition, we reserve the right to amend our motion to compel if the discovery responses that are served on August 29, 2008 are incomplete.

Very truly yours,



PETER J. SMITH IV

PJS:pjs

cc: Mischelle Fulgham
Client

ORIGINAL

POWELL & REED, P.C.
Todd M. Reed, Attorney at Law
318 Pine Street
P.O. Box 1005
Sandpoint, Idaho 83864
Phone: (208) 263-3529
Fax: (208) 263-4438
ISB No. 4788

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2008 AUG 26 P 4: 42

MARIE SCOTT
CLERK DISTRICT COURT

MA
CLERK

Attorney for Petitioner

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER
MAGISTRATE DIVISION

TERESA R. BLANKENSHIP:)	
	)	Case No.: CV 2007-00572
Petitioner,)	
vs.	)	<u>AMENDED</u> PETITION FOR
	)	REMOVAL OF TRUSTEE,
WASHINGTON TRUST BANK,	)	PRELIMINARY INJUNCTION
as Trustee,	)	AND COMPLAINT FOR DAMAGES
Respondent.)	
_____)	

I.

Petitioner is the Beneficiary of a Trust created by her mother, commonly known as The Althea Bowman Trust, hereto referred to as the Children's Trust.

II.

Petitioner is a resident of Sandpoint, Bonner County, Idaho and the Trust property, of a real property nature, is all located in Bonner County.

III.

Respondent has administered the Trust from Kootenai County, but has recently transferred it to Spokane County, Washington.

IV.

Respondent has operated the Trust in Idaho and therefore is assumed jurisdiction and submitted to personal jurisdiction in the State of Idaho. Therefore, under Idaho Law 15-7-104, jurisdiction is appropriate in Bonner County, Idaho.

V.

During this juncture of time the Trust has been operated in a manner in which the Petitioner believes the removal of the Trustee is appropriate under Idaho Law.

VI.

Trustee has participated in lending other beneficiaries outside of what is permitted in the Trust and has not operated the real property in a manner in which to maximize the return of profits to benefit the beneficiaries of this Trust.

VII.

Said actions of the Trustee are, in essence, waste and the Trustee should be removed to avoid continued waste and removal is appropriate pursuant to 15-7-308.

VIII.

Petitioner further alleges that Trustee has recently informed her that certain real properties owned by the Trust will be sold and the assets deposited within the Trust. Petitioner submits to the Court that this is not in the best interests of the beneficiaries of the Trust in that the real property would not gain the maximum amount of value at this time and in fact the Trust can't be administered with this real property remaining in the Trust. The sale of the real property, over the objections by the beneficiaries, would deprive the beneficiaries of future income and assets.

IX.

Petitioner hereby applies for a Preliminary Injunction to prohibit the sale of the real property until a determination can be made in a hearing or trial as to the future of the Trustee administering this Trust and the actual sale value of the real property.

X.

NEGLIGENT OPERATION OF TRUST

Petitioner reaffirms the allegations asserted above.

XI.

Respondent was under an obligation to administer the trust in a manner and in conformity with Idaho Law and specifically Idaho Code §15-7-302.

XII.

In addition to the standards addressed in Idaho Code, Respondent owed a duty of loyalty to the Petitioner.

XIII.

The Respondent violated the duty of loyalty, as well as the above-referenced code and Idaho Law by negligently administering the trust and encumbering trust property for its own benefit.

XIV.

Due to the actions of the Respondent the Petition has been financially damaged. This damage is in an amount to be determined at time of trial, however is in excess of One Hundred Thousand Dollars (\$100,000.00), therefore jurisdiction is appropriate in this Court.

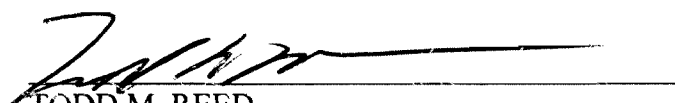
XV.

Respondent's actions have made it necessary for Petitioner to contract with an attorney, therefore Petitioner requests that attorney fees and costs be paid by the Respondent. Petitioner further requests the opportunity to amend this Petition upon further notice.

WHEREFORE, Petitioner prays for relief as follows:

1. That the Respondent be removed as the Trustee.
2. That a Permanent Injunction issue, prohibiting the sale of real property within the Trust.
3. For damages in a amount to be determined at time of trial in excess of One Hundred Thousand Dollars (\$100,000.00).
4. For attorney fees and costs in bringing and defending this action.
5. For any other modification the Court deems proper.

DATED this 24 day of ^{August}~~May~~, 2008.


TODD M. REED
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on this 26 day of August, 2008, I served a true and correct copy of the foregoing on the individuals listed below, by the following method:

Mischelle R. Fulgham
Lukins & Annis, PS
250 Northwest Blvd, Suite 102
Coeur d'Alene, Idaho 83814-2971

☐ U.S. Mail, postage prepaid
☐ Hand Delivered
☒ Overnight mail
☐ Faxed (208) 664-4125

Peter J. Smith IV
Lukins & Annis, PS
250 Northwest Blvd, Suite 102
Coeur d'Alene, Idaho 83814-2971

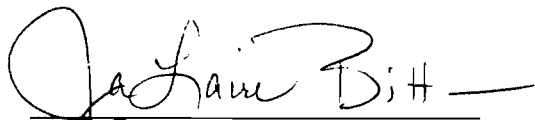
☐ U.S. Mail, postage prepaid
☐ Hand Delivered
☒ Overnight mail
☐ Faxed (208) 664-4125

James Theodore Diehl
Attorney at Law
106 West Superior Street
Sandpoint, Idaho 83864

☐ U.S. Mail, postage prepaid
☐ Hand Delivered
☒ Overnight mail
☐ Faxed (208) 263-8983

The Honorable John T. Mitchell
Kootenai County District Court
Post Office Box 9000
Coeur d'Alene, Idaho 83814

☐ U.S. Mail, postage prepaid
☐ Hand Delivered
☒ Overnight mail
☐ Faxed (208) 446-1132


JaLaine Bitton

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2008 AUG 26 P 4: 04

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

MISCHELLE R. FULGHAM
ISB #4623
PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS. P.S.
Ste 102
250 Northwest Blvd
Coeur d'Alene, ID 83814-2971
Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

Attorneys for Respondent
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

v.

WASHINGTON TRUST BANK, as trustee,

Respondent.

NO. CV-2007-00572

MOTION FOR LEAVE TO RESIGN

Respondent is the duly appointed, qualified, and acting trustee of a certain trust estates created for the use and benefit of William Michael Bowman, Eric Lane Bowman, Ryan Arthur Bowman, and Teresa Renee Bowman Blankenship, having been appointed such trustee by the Last Will and Testament of Althea Lorraine Bowman.

On April 3, 2007, Petitioner filed a Petition for Removal of Respondent as Trustee from her Trust. The other beneficiaries have not requested the Respondent be removed as Trustee;

MOTION FOR LEAVE TO RESIGN: 1

Blankenship, c/o Todd M. Reed, Attorney at Law, 318 Pine Street, P.O. Box 1005, Sandpoint, Idaho 83864. All of the persons are of full age and sound mind.

There are no other persons interested in this application or proceeding.

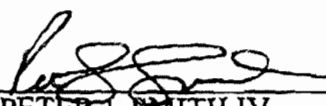
Wherefore, Respondent moves for an Order providing:

1. That Respondent be granted leave to resign the trust;
2. That, after due accounting, Respondent be discharged from the trust and released from all liabilities in connection therewith; and
3. That, after such accounting, Respondent's sureties be discharged from any future liability.

DATED this 26th day of August, 2008.

LUKINS & ANNIS, P.S.

By


PETER J. SMITH IV
ISB #6997
Attorneys for Respondent
WASHINGTON TRUST BANK

MOTION FOR LEAVE TO RESIGN: 3

08/26/2008 13:41 FAX 208 263-4438

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of August, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
Post Office Box 1005
Sandpoint, Idaho 83864-1339
Attorney for Teresa R. Blankenship, Petitioner

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy (FAX) to (208) 263-4438

William Michael Bowman
c/o Ted Diehl, Attorney at Law
106 W. Superior
Sandpoint, Idaho 83864

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy (FAX) to (208) 263-4438

Eric Lane Bowman
P.O. Box 789
Rathdrum, Idaho 83858

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (FAX) to (208) 263-4438

Ryan Arthur Bowman
605 Monarch Road
Sagle, Idaho 83860

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (FAX) to (208) 263-4438



PETER J. SMITH IV

MOTION FOR LEAVE TO RESIGN: 4

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2008 SEP -3 P 4: 26

MISCHELLE R. FULGHAM
ISB #4623
PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS, P.S.
Ste 102
250 Northwest Blvd
Coeur d'Alene, ID 83814-2971
Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

CLERK DISTRICT COURT
ap

Attorneys for Respondent
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

NO. CV-2007-00572

v.

NOTICE OF WITHDRAWAL OF
MOTION TO COMPEL

WASHINGTON TRUST BANK, as trustee,


Respondent.

NOTICE IS HEREBY GIVEN that WASHINGTON TRUST BANK hereby withdraws
its Motion to Compel set for hearing on September 9, 2008 at the hour of 3:30 p.m. in the
Courtroom of the above entitled Court, 324 West Garden Avenue, Coeur d'Alene, Idaho,
before the Honorable John T. Mitchell.

NOTICE OF WITHDRAWAL OF MOTION TO
COMPEL: 1

DATED this 3rd day of September, 2008.

LUKINS & ANNIS, P.S.

By 
PETER J. SMITH IV
ISB #6997
Attorneys for Respondent
WASHINGTON TRUST BANK

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3rd day of September, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
Post Office Box 1005
Sandpoint, Idaho 83864-1339
Attorney for Teresa R. Blankenship, Petitioner

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy (FAX) to (208) 263-4438


PETER J. SMITH IV

NOTICE OF WITHDRAWAL OF MOTION TO
COMPEL: 2

167

MISCHELLE R. FULGHAM
ISB #4623
PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS, P.S.
Ste 102
250 Northwest Blvd
Coeur d'Alene, ID 83814-2971
Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

Attorneys for Respondent
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

v.

WASHINGTON TRUST BANK, as trustee,

Respondent.

NO. CV-2007-00572

ORDER GRANTING MOTION TO
REFER CASE TO MEDIATION

On September 9, 2008 the motion of WASHINGTON TRUST BANK, the Respondent in the above numbered and styled cause, for an order referring that cause to mediation pursuant to I.R.C.P. Rule 16(k)(4)(A) came on regularly for consideration, due notice having been given, and the parties appeared by their attorneys.

On considering the pleadings, affidavits, and other papers on file with the Court, the evidence received, and the arguments of counsel, the Court finds and concludes that the motion

ORDER GRANTING MOTION TO REFER CASE TO
MEDIATION: 1

should be granted for the reason(s) that mediation would be helpful in resolving this dispute and/or narrowing the issues in dispute before trial. Now, therefore,

IT IS ORDERED that the above numbered and style cause is referred to mediation before ~~a mediator~~ ^{Peter Erblan} mutually agreed to by the parties, at date, time, and place within days from the date of service of this order, but in no event shall the mediation conference be scheduled later than ^{September 30,} ~~October 10,~~ 2008, unless by court order, and that the parties and their attorneys of record shall attend all mediation conferences.

IT IS FURTHER ORDERED that after the end of the mediation conference or conferences, that the parties shall report to this Court as to whether the above numbered and styled cause reached a settlement or not, but in no event shall other information concerning the mediation conference be conveyed to the Court.

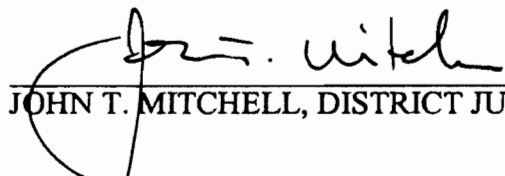
IT IS FURTHER ORDERED that no pleadings, process, subpoenas, writs, or other papers may be served on parties or witnesses either on entering, attending, or leaving a mediation conference.

IT IS FURTHER ORDERED that the costs for this mediation be borne equally between plaintiff and defendant.

ORDER GRANTING MOTION TO REFER CASE TO
MEDIATION: 2

IT IS FURTHER ORDERED that any relief not expressly granted in this Order is denied.

DATED this 9th day of September, 2008.


JOHN T. MITCHELL, DISTRICT JUDGE

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10 day of Sept, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
Post Office Box 1005
Sandpoint, Idaho 83864-1339
Attorney for Teresa R. Blankenship, Petitioner

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy (FAX) to (208) 263-4438

Mischelle R. Fulgham
Lukins & Annis, P.S.
250 Northwest Blvd., Suite 102
Coeur d'Alene, Idaho 83814
Attorneys for Washington Trust Bank, Respondent

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy (FAX) to (208) 664-4125

Peter E. Eubank Faxed
Faxed Bonner Co. dist
ct.


DEPUTY CLERK

ORDER GRANTING MOTION TO REFER CASE TO
MEDIATION: 3

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT

2008 SEP 10 P 2:49

MAJIE SCOTT
CLERK DISTRICT COURT

ap

MISCHELLE R. FULGHAM
ISB #4623
PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS, P.S.
Ste 102
250 Northwest Blvd
Coeur d'Alene, ID 83814-2971
Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

Attorneys for Respondent
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

NO. CV-2007-00572

v.

ORDER GRANTING MOTION TO
REFER CASE TO MEDIATION

WASHINGTON TRUST BANK, as trustee,

Respondent.

On September 9, 2008 the motion of WASHINGTON TRUST BANK, the Respondent in the above numbered and styled cause, for an order referring that cause to mediation pursuant to I.R.C.P. Rule 16(k)(4)(A) came on regularly for consideration, due notice having been given, and the parties appeared by their attorneys.

On considering the pleadings, affidavits, and other papers on file with the Court, the evidence received, and the arguments of counsel, the Court finds and concludes that the motion

ORDER GRANTING MOTION TO REFER CASE TO
MEDIATION: 1

should be granted for the reason(s) that mediation would be helpful in resolving this dispute and/or narrowing the issues in dispute before trial. Now, therefore,

IT IS ORDERED that the above numbered and style cause is referred to mediation before ~~a mediator~~ ^{Peter Evlind} mutually agreed to by the parties, at date, time, and place within days from the date of service of this order, but in no event shall the mediation conference be scheduled later than ~~October 10,~~ ^{September 30,} 2008, unless by court order, and that the parties and their attorneys of record shall attend all mediation conferences.

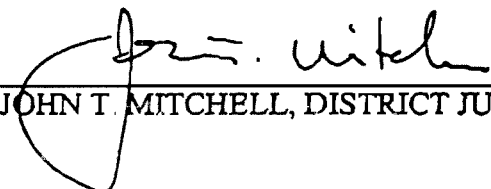
IT IS FURTHER ORDERED that after the end of the mediation conference or conferences, that the parties shall report to this Court as to whether the above numbered and styled cause reached a settlement or not, but in no event shall other information concerning the mediation conference be conveyed to the Court.

IT IS FURTHER ORDERED that no pleadings, process, subpoenas, writs, or other papers may be served on parties or witnesses either on entering, attending, or leaving a mediation conference.

IT IS FURTHER ORDERED that the costs for this mediation be borne equally between plaintiff and defendant.

IT IS FURTHER ORDERED that any relief not expressly granted in this Order is denied.

DATED this 9th day of September, 2008.


JOHN T. MITCHELL, DISTRICT JUDGE

CLERK'S CERTIFICATE OF SERVICE

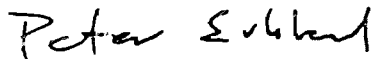
I HEREBY CERTIFY that on the 10 day of Sept, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
Post Office Box 1005
Sandpoint, Idaho 83864-1339
Attorney for Tercsa R. Blankenship, Petitioner

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy (FAX) to (208) 263-4438

Mischelle R. Fulgham
Lukins & Annis, P.S.
250 Northwest Blvd., Suite 102
Coeur d'Alene, Idaho 83814
Attorneys for Washington Trust Bank, Respondent

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy (FAX) to (208) 664-4125




DEPUTY CLERK

ORDER GRANTING MOTION TO REFER CASE TO
MEDIATION: 3

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT

2008 SEP 10 P 12: 16

MARK SCOTT
CLERK DISTRICT COURT

MISCHELLE R. FULGHAM
ISB #4623
PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS, P.S.
Ste 102
250 Northwest Blvd
Coeur d'Alene, ID 83814-2971
Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

Attorneys for Respondent
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

v.

WASHINGTON TRUST BANK, as trustee,

Respondent.

NO. CV-2007-00572

ORDER GRANTING RESPONDENT'S
MOTION FOR LEAVE TO RESIGN

This matter came on regularly to be heard on September 9, 2008 on the motion of Respondent for leave to resign as trustee of the above trust estate, with Mischelle R. Fulgham appearing as attorney for Respondent, and with Todd M. Reed appearing as attorney for Petitioner; and evidence having been introduced, and the matter having been argued; and

It appearing to the court from the above that on October 9, 1998, Althea Lorraine Bowman, as testator, executed Last Will and Testament of Althea Lorraine Bowman, whereby creating a testamentary trust for certain properties which were to be placed irrevocably in trust

ORDER GRANTING RESPONDENT'S MOTION FOR
LEAVE TO RESIGN: 1

for the benefit of William Michael Bowman, Eric Lane Bowman, Ryan Arthur Bowman, and Teresa Renee Bowman Blankenship; and

It further appearing that petitioner is unable further to discharge petitioner's duties under the trust and desires to resign as such trustee; and

It further appearing that under the terms of the Last Will and Testament of Althea Lorraine Bowman Respondent is expressly granted the power to resign with written notice to the beneficiaries. Specifically, Article VI, Section 7 provides that the powers of the Trustee include to:

At any time resign as Trustee of any or all trusts created by this instrument without court proceedings, by delivering a written notice of resignation to the beneficiaries who are then entitled to trust income, or for whom income is then being accumulated.

It further appearing that William Michael Bowman, Eric Lane Bowman, Ryan Arthur Bowman, and Teresa Renee Bowman Blankenship have been provided written notice of the resignation of Respondent.

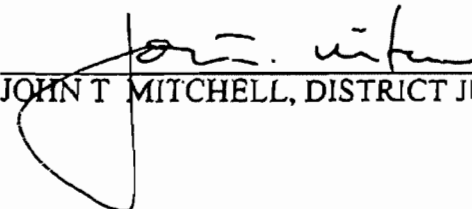
It is ordered that:

1. The resignation of the as trustee be, and it is, accepted;
2. The beneficiaries and their attorneys shall locate a successor trustee, whose appointment to succeed Respondent as trustee;
3. Respondent is directed, within thirty (30) days after the date of this order, to render a full accounting of all of Respondent's actions as trustee, and to turn over all assets and property of the trust estate in petitioner's hands to this Court until a successor trustee is located, and to execute any and all instruments necessary to do so; and

ORDER GRANTING RESPONDENT'S MOTION FOR
LEAVE TO RESIGN: 2

4. After such accounting is finally settled by this court, ^{respondent} ~~petitioner~~ ^{from 9/2/08} may apply to this court for ^{its} ~~his~~ discharge from all future liability in connection with the trust estate.

DATED this 9th day of September, 2008.


JOHN T. MITCHELL, DISTRICT JUDGE

ORDER GRANTING RESPONDENT'S MOTION FOR
LEAVE TO RESIGN: 3

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10 day of September, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Mischelle R. Fulgham
Peter J. Smith IV
250 Northwest Blvd., Suite 102
Coeur d'Alene, Idaho 83814
Attorneys for Respondent, Washington Trust Bank
Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
Post Office Box 1005
Sandpoint, Idaho 83864-1339
Attorney for Teresa R. Blankenship, Petitioner

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy (FAX) to (208) 664-4125

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy (FAX) to (208) 263-4438

William Michael Bowman
c/o Ted Diehl, Attorney at Law
106 W. Superior
Sandpoint, Idaho 83864

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (FAX)

Eric Lane Bowman
P.O. Box 789
Rathdrum, Idaho 83858

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (FAX)

Ryan Arthur Bowman
605 Monarch Road
Sagle, Idaho 83860

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (FAX)

*Faxed
Bonner Co Dist Ct.*

Glenn Clausen
Deputy Clerk

ORDER GRANTING RESPONDENT'S MOTION FOR
LEAVE TO RESIGN: 4

ORIGINAL

POWELL & REED, P.C.
Todd M. Reed, Attorney at Law
318 Pine Street
P.O. Box 1005
Sandpoint, Idaho 83864
Phone: (208) 263-3529
Fax: (208) 263-4438
ISB No. 4788

2008 SEP 25 P 4: 19

CLERK OF DISTRICT COURT

ap

Attorney for Petitioner

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,)	
	)	Case No.: CV 2007-00572
Petitioner,)	
vs.	)	OBJECTION TO NOTICE
	)	OF FILING VERIFIED ACCOUNT
WASHINGTON TRUST BANK,	)	OF FORMER TRUSTEE UNDER
as Trustee,	)	SEAL
Respondent,)	
)	

COMES NOW, the Petitioner, TERESA R. BLANKENSHIP, by and through her attorney of record, Todd M. Reed and hereby objects to the hearing date set for Respondent's hearing on Notice of Filing Verified Account of Former Trustee Under Seal.

The basis for this objection is that attorney for the Petitioner has not had adequate time to review the documents and adequate notice was not given. Petitioner needs additional time to review the documents and the determine how to proceed.

DATED this 25 day of September, 2008.



TODD M. REED
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on this 25 day of September, 2008, I served a true and correct copy of the foregoing on the individuals listed below, by the following method:

Mischelle R. Fulgham
Lukins & Annis, PS
250 Northwest Blvd, Suite 102
Coeur d'Alene, Idaho 83814-2971

____ U.S. Mail, postage prepaid
____ Hand Delivered
____ Overnight mail
____ ☒ Faxed (208) 664-4125

Peter J. Smith IV
Lukins & Annis, PS
250 Northwest Blvd, Suite 102
Coeur d'Alene, Idaho 83814-2971

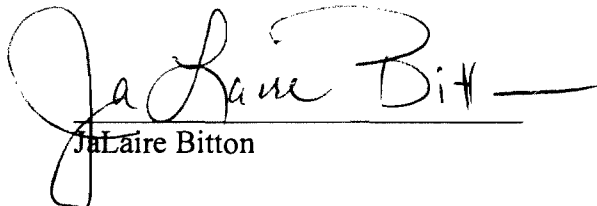
____ U.S. Mail, postage prepaid
____ Hand Delivered
____ Overnight mail
____ ☒ Faxed (208) 664-4125

James Theodore Diehl
Attorney at Law
106 West Superior Street
Sandpoint, Idaho 83864

____ U.S. Mail, postage prepaid
____ Hand Delivered
____ Overnight mail
____ ☒ Faxed (208) 263-8983

The Honorable John T. Mitchell
Kootenai County District Court
Post Office Box 9000
Coeur d'Alene, Idaho 83814

____ U.S. Mail, postage prepaid
____ Hand Delivered
____ Overnight mail
____ ☒ Faxed (208) 446-1132


JaLaire Bitton

ORIGINAL

POWELL & REED, P.C.
Todd M. Reed, Attorney at Law
318 Pine Street
P.O. Box 1005
Sandpoint, Idaho 83864
Phone: (208) 263-3529
Fax: (208) 263-4438
ISB No. 4788

STATE OF IDAHO
COUNTY OF BONNER
CLERK

2008 SEP 25 P 4:19

CLERK
40

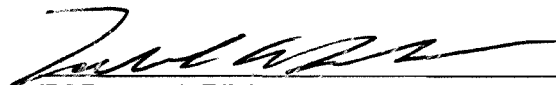
Attorney for Petitioner

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP:)	
	)	Case No.: CV 2007-00572
Petitioner,)	
vs.	)	MOTION TO APPOINT TRUSTEE
	)	AND TRANSFER OF ASSETS IN TRUST
WASHINGTON TRUST BANK,	)	AND NOTICE OF HEARING
as Trustee,)	
Respondent.)	
)	

COMES NOW, the Petitioner, TERESA R. BLANKENSHIP, by and through her attorney of record and hereby moves to appoint Beverly Kee, CPA, as Tustee for the Trust and transfer assets to the Trust.

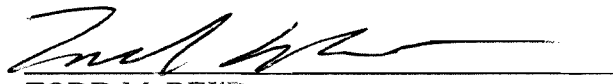
DATED this 25 day of September, 2008.


TODD M. REED
Attorney for Petitioner

NOTICE OF HEARING

Notice is hereby given that the Petitioner, TERESA BLANKENSHIP, by and through her attorney of record, Todd M. Reed, will call on for hearing the foregoing Motion before the Honorable John T. Mitchell, District Judge of the above Court, **on the 21st day of October, 2008, at the hour of 4:00 p.m.**, or as soon thereafter as it may be heard at the Courthouse in Coeur d'Alene, Idaho, at which time Petitioner will provide oral argument and testimony.

DATED this 25 day of September, 2008.


TODD M. REED
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on this 25 day of September, 2008, I served a true and correct copy of the foregoing on the individuals listed below, by the following method:

Mischelle R. Fulgham
Lukins & Annis, PS
250 Northwest Blvd, Suite 102
Coeur d'Alene, Idaho 83814-2971

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Peter J. Smith IV
Lukins & Annis, PS
250 Northwest Blvd, Suite 102
Coeur d'Alene, Idaho 83814-2971

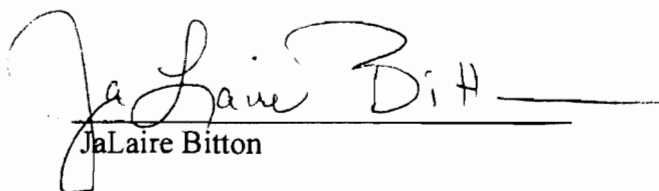
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James Theodore Diehl
Attorney at Law
106 West Superior Street
Sandpoint, Idaho 83864

☐ U.S. Mail, postage prepaid
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☒ Faxed (208) 263-8983

The Honorable John T. Mitchell
Kootenai County District Court
Post Office Box 9000
Coeur d'Alene, Idaho 83814

☐ U.S. Mail, postage prepaid
☐ Hand Delivered
☐ Overnight mail
☒ Faxed (208) 446-1132


JaLaire Bitton

STATE OF IDAHO
CLERK OF DISTRICT COURT

2008 OCT -3 A 11:33

MISCHELLE R. FULGHAM
ISB #4623
PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS, P.S.
Ste 102
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CLERK OF DISTRICT COURT
ap

Attorneys for Respondent
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

V.

WASHINGTON TRUST BANK, as trustee,

Respondent.

NO. CV-2007-00572

MOTION TO COMPEL DISCOVERY

RELIEF SOUGHT

The Respondent moves, pursuant to I.R.C.P. Rule 37(a), for an Order requiring the Petitioner to answer the Interrogatories which were served upon Petitioner's attorney on the 9th day of July, 2008, pursuant to I.R.C.P. Rule 33, which can be seen by the Notices of Service of Discovery of Interrogatories filed with this Court on July 9, 2008.

GROUND

Petitioner failed and refused to provide complete answers to various interrogatories. These refusals, included the following:

MOTION TO COMPEL: 1

Interrogatory No. 2 requested:

Identify all persons with knowledge pertaining to the allegation in your Petition that the Trust was administered by WTB in Kootenai County, Idaho, and for each person so identified set forth with particularity the knowledge he or she possesses.

Petitioner's answers were adequate as to all witnesses, except for herself. As to herself, she stated:

It is anticipated that she has information as to the location of the administration of the trust by various individuals and contacting those individuals in Coeur d'Alene, Idaho.

Since Petitioner prepared the responses to the interrogatories, she certainly does not need to "anticipate" what information she may or may not have. She must know. Respondent requests that Petitioner be ordered to provide supplemental answers setting forth with particularity the information she does have.

In addition, the answer to Interrogatory No. 2 made vague references to documents. In particular:

In addition, please see discovery letter from Washington Trust Bank, Discovery Document from Susan Kuzma and Diane Albrethsen, emails and statements from Washington Trust Bank, letter from Jim Black and Responses to Requests for Production.

Rule 33(c) allows a party to produce records in response to an interrogatory. Rule 33(c), I.R.C.P. However, such an answer is only sufficient if it specifies the records from which the answer may be derived or ascertained. *Id.* Petitioner's answer does not specify the responsive records with enough particularity for Respondent to determine what records Petitioner is referring to in her response.

Respondent requests that Petitioner be ordered to identify with particularity: (1) the "discovery letter from Washington Trust Bank"; (2) the "Discovery Document from Susan

MOTION TO COMPEL: 2

Kuzma and Diane Albrethsen"; (3) the "emails and statements from Washington Trust Bank"; and (4) the "letter from Jim Black"; and (5) the "Responses to Requests for Production" which are responsive to Interrogatory No. 2.

Interrogatory No. 4 requested:

Identify all persons with knowledge pertaining to the allegation in your Petition that there exist grounds for removal of WTB as Trustee of the Trust, and for each person so identified set forth with particularity the knowledge he or she possesses.

Petitioner's answer did not set forth with particularity the knowledge she possessed.

She stated:

It is anticipated that she has information that relates to WASHINGTON TRUST BANK charging fees that are inappropriate, failure to operate the property within the lease agreements that were executed by WASHINGTON TRUST BANK or their agents, attempting to sell the property when the market is low, and delivering money to beneficiaries outside of the trust agreement.

Since Petitioner prepared the answers to the interrogatories, she certainly does not need to "anticipate" what information she may or may not have. She must know. Respondent requests that the Court order Petitioner to provide a supplemental answer setting forth:

- (1) The amount of each fee she alleges was "inappropriately charged", the date each such fee was charged, and the grounds upon she believes the fee was inappropriate.
- (2) Each alleged failure by Washington Trust Bank to operate the property within the lease agreements and the date of such failure. If it is not clear, Petitioner should be required to identify specifically the lease related to each failure.
- (3) The identity of the "beneficiaries" who received money outside of the trust agreement and the date they received such funds.

MOTION TO COMPEL: 3

In addition, the answer to Interrogatory No. 4 made vague references to documents produced.

See all Responses to Requests for Production and Washington Trust Bank discovery documentation.

Respondent requests that Petitioner be ordered to identify with particularity: (1) the "Responses to Requests for Production"; and (2) the "Washington Trust Bank discovery documentation" which are responsive to Interrogatory No. 4.

Interrogatory No. 8 requested:

Identify all persons with knowledge pertaining to the allegation in your Petition that the real property managed by WTB did not maximize the return of profits to the beneficiaries of the Trust, and for each person so identified set forth with particularity the knowledge he or she possesses.

Petitioner's answer was nonresponsive. She stated:

It is anticipated that she has information that she has compiled that demonstrates that WASHINGTON TRUST BANK failed to collect rents that were proper, paid insurance and real property taxes when they should not have and failed to market various properties.

Petitioner prepared the responses to the interrogatories, she certainly does not need to "anticipate" what information she may or may not have. She must know. Petitioner should be ordered to provide an answer setting forth the particular knowledge she has regarding:

- (1) The information "compiled" that demonstrates that Washington Trust Bank failed to collect rents that were proper;
- (2) The "insurance and real property taxes" paid; and
- (3) The failure to "market various properties."

MOTION TO COMPEL: 4

In addition, Petitioner cited Susan Kuzma and Diane Albrethsen as persons with knowledge. However, Petitioner failed set forth with particularity what knowledge she believes each possesses and simply states "See Deposition." Respondent requests that Petitioner be ordered provide supplemental answers for each setting forth specific references to the deposition transcripts that she believes are responsive to this request.

Finally, the answer to Interrogatory No. 8 made vague references to documents. It stated:

See all Responses to Request for Production Nos. 1-16 and all disclosure documents.

Respondent requests that Petitioner be ordered to identify with particularity the documents produced in response to Requests for Production Nos. 1-16 and the "disclosure documents" which show the real property managed by WTB did not maximize the return of profits to the beneficiaries of the Trust.

Interrogatory No. 10 requested:

Describe in detail all actions of WTB that you believe constitute "waste."

The answer to Interrogatory No. 10 made vague references to documents. It stated:

Additionally see Responses to Request for Production Nos. 1-16 and all disclosure documents that were provided by WASHINGTON TRUST BANK to Plaintiff [sic] at the time of the Depositions of Diane Albrethsen and Susan Kuzma.

Respondent requests that Petitioner be ordered to identify with particularity the documents produced in response to Requests for Production Nos. 1-16 and the "disclosure documents" which describe the actions of WTB that Petitioner believe constituted waste.

MOTION TO COMPEL: 5

Interrogatory No. 11 requested:

Identify all persons with knowledge pertaining to the allegation in your Petition that WTB has committed waste, and for each person so identified set forth with particularity the knowledge he or she possesses.

Petitioner's response was incomplete as to Diane Albrethsen and Susan Kuzma. She stated:

Diane Albrethsen

Possesses information of the waste that she testified to at the time of her deposition.

Susan Kuzma

Possesses information of the waste that she testified to at the time of her deposition.

Petitioner identified Diane Albrethsen and Susan Kuzma as persons with knowledge pertaining to the allegation that Washington Trust Bank committed waste. However, rather than setting forth with particularity the knowledge each possesses, the answer simply directs us to the "information of the waste that she testified to at the time of [their] deposition." Petitioner should be ordered to set forth with particularity the information each testified to at the deposition, including specific citations to the testimony.

Interrogatory No. 14 requested:

Describe in detail the grounds upon which you assert the Trust "can't be administered with this real property remaining in the Trust."

Petitioner's answer to Interrogatory No. 14 made vague references to documents. It stated:

See Responses to Request for Production Nos. 1-16 and all disclosure documents.

MOTION TO COMPEL: 6

Respondent requests that Petitioner be ordered to identify with particularity the documents produced in response to Requests for Production Nos. 1-16 and the "disclosure documents" which describe the grounds upon which the Trust "can't be administered with this real property remaining in the Trust."

Respondent has made a reasonable and good faith attempt to contact Petitioner for an informal resolution of the issues pertaining to the above. On September 11, 2008, Respondent's counsel, Peter J. Smith IV, sent a letter to Respondent's counsel, Todd M. Reed, outlining the items above. See Exhibit A to the Affidavit of Peter J. Smith IV, simultaneously filed herewith. As of the date of filing this Motion, Petitioner has not responded.

WHEREFORE, Respondent requests that an order be issued that:

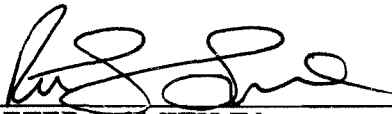
1. Respondent is entitled to prompt and effective discovery of all matters referred to in the request;
2. Petitioner be ordered to comply fully with the request immediately
3. Respondent requests that the Court enter an order of sanctions taxing in their favor and against the Petitioner the Respondents reasonable attorney's fees and other expenses incurred in preparing these Motion to Compel materials and in obtaining the entry of an order compelling the discovery sought in this proceeding.

MOTION TO COMPEL: 7

4. Respondent requests such other or additional relief as this Court deems fair and just.

DATED this 7th day of October, 2008.

LUKINS & ANNIS, P.S.


By 
PETER J. SMITH IV
ISB #6997
Attorneys for Respondent
WASHINGTON TRUST BANK

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7th day of October, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
Post Office Box 1005
Sandpoint, Idaho 83864
Attorney for Petitioner

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy (FAX) (208) 263-4438


PETER J. SMITH IV

MOTION TO COMPEL: 8

STATE OF IDAHO
COUNTY OF BONNER
JUL 10 2008

2008 OCT -8 A 11:34

CLERK OF COURT
ap

MISCHELLE R. FULGHAM
ISB #4623
PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS, P.S.
Ste 102
250 Northwest Blvd
Coeur d'Alene, ID 83814-2971
Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

Attorneys for Respondent
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

v.

WASHINGTON TRUST BANK, as trustee,

Respondent.

NO. CV-2007-00572

MOTION TO CONTINUE TRIAL

WASHINGTON TRUST BANK, Petitioner, by its counsel, hereby moves the court for an order requiring that the trial of the above-entitled and numbered case, now set for November 17, 2008 at 9:00 A.M. for a two (2) day Court trial, be continued to at least February, 2009, on the grounds that there is insufficient time before trial to complete discovery.

In support of this motion, Respondent directs the Court to the following:

- On August 26, 2008, Petitioner finally filed her Amended Petition seeking more than \$100,000 in damages.

MOTION TO CONTINUE TRIAL: 1

- On September 18, 2008, Respondent served its first set of requests for admission and second set of interrogatories and requests for production. Pursuant to this Court's scheduling order, no more written discovery may be propounded.
- Also on September 18, 2008, Respondent served notice of depositions of Gary Blankenship and Petitioner. Pursuant to this Court's scheduling order, no more depositions may be scheduled.
- On September 25, 2008, the parties engaged in mediation. Pursuant to the Court's order, Peter Erbland acted as the mediator. During mediation, Petitioner disclosed that Bev Kee, a CPA, has performed damages calculations for Petitioner.
- On October 6, 2008, Petitioner disclosed Bev Kee, CPA as her expert witness. More time is necessary to complete discovery regarding Bev Kee's expert witness testimony. Respondent must be afforded the opportunity to serve a subpoena for production of written documents and take the deposition of Bev Kee, which is unlikely to be possible before the November 17, 2008 trial date.
- As evidenced by Respondent's Motion to Compel, filed on the same date as this motion, Petitioner has refused or failed to provide complete answers to discovery previously served upon her.

For the reasons stated, to effectively prepare for trial, additional time is required. This

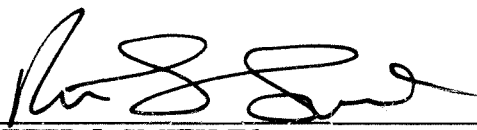
MOTION TO CONTINUE TRIAL: 2

continuance is requested not for the purpose of delay, but in order that justice may be done.

This motion is based on the all the records and files in this case, and any evidence that may be produced at the hearing.

DATED this 7th day of October, 2008.

LUKINS & ANNIS, P.S.

By 
PETER J. SMITH IV
ISB #6997
Attorneys for Respondent
WASHINGTON TRUST BANK


MOTION TO CONTINUE TRIAL: 3

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7th day of October, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
Post Office Box 1005
Sandpoint, Idaho 83864
Attorney for Petitioner

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy (FAX) (208) 263-4438



PETER J. SMITH IV

MOTION TO CONTINUE TRIAL: 4

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT

2008 OCT 21 P 3:37

MAILED
CLERK DISTRICT COURT

MISCHELLE R. FULGHAM
ISB #4623
PETER J. SMITH IV
ISB #6997
LUKINS & ANNIS, P.S.
Ste 102
250 Northwest Blvd
Coeur d'Alene, ID 83814-2971
Telephone: (208) 667-0517
Facsimile No.: (208) 664-4125

Attorneys for Respondent
WASHINGTON TRUST BANK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

V.

WASHINGTON TRUST BANK, as trustee,

Respondent.

NO. CV-2007-00572

WITHDRAWAL OF MOTION TO
CONTINUE TRIAL

WASHINGTON TRUST BANK, Respondent, by its counsel, hereby withdraws its previously filed motion to continue the trial of the above-entitled and numbered case, and the case shall remain as currently set for trial on November 17, 2008 at 9:00 A.M. for a two (2) day Court trial.

WITHDRAWAL OF RESPONDENT'S MOTION TO
CONTINUE TRIAL: 1

DATED this 21ST day of October, 2008.

LUKINS & ANNIS, P.S.

By 

MISCHELLE R. FULGHAM

ISB #4523

PETER J. SMITH IV

ISB #6997

Attorneys for Respondent

WASHINGTON TRUST BANK

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of October, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Todd M. Reed
Powell & Reed, P.C.
318 Pine Street
Post Office Box 1005
Sandpoint, Idaho 83864
Attorney for Petitioner

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☐ Overnight Mail
☒ Telecopy (FAX) (208) 263-4438


MISCHELLE R. FULGHAM

WITHDRAWAL OF RESPONDENT'S MOTION TO
CONTINUE TRIAL: 2

1 J. T. DIEHL
2 Attorney at Law
3 106 W. Superior Street
4 Sandpoint, ID 83864
(208) 263-8529
5 ISB #3526

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2008 OCT 21 P 2:10

6 Attorney for Petitioner Bowman

MARIE M. D.
CLERK DISTRICT COURT

7 IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
8 STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

9 TERESA R. BLANKENSHIP,)

10 Petitioner,)

11 vs.)

12 WASHINGTON TRUST BANK,
13 as Trustee,)

14 Respondent.)

Case No. CV-2007-00572

MOTION FOR LEAVE
TO INTERVENE

15 COMES NOW, WILLIAM MICHAEL BOWMAN, by and through his attorney, J. T. DIEHL
16 and hereby moves the Court for leave to intervene the above action as a Petitioner pursuant to
17 I.R.C.P. Rule 19(a)(1) and (a)(2) and I.R.C.P. Rule 20(a). The basis of this motion is set forth in
18 the Affidavit of WILLIAM MICHAEL BOWMAN filed herewith and as set forth as follows:

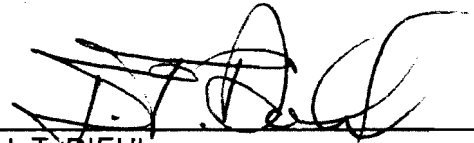
19 1. WILLIAM MICHAEL BOWMAN is one of four beneficiaries of a trust created by his
20 mother, ALTHEA BOWMAN.

21 2. Movant has been, and will continue to be, impacted by actions taken by
22 Respondent during the time it was acting as Trustee.

23 3. In the absence of the movant's ability to intervene, complete relief cannot be
24 accorded among those already parties to this action and; furthermore, without allowing for
25 intervention, WILLIAM MICHAEL BOWMAN is unable to protect his interest.
26
27
28

1 WHEREFORE, WILLIAM MICHAEL BOWMAN hereby moves the Court for an order
2 granting him leave to intervene in the above entitled action and to assert such claims involving
3 questions of law and fact common to the pending main action brought against Respondent.
4

5 Respectfully submitted this 21 day of October, 2008.

6
7
8 
9 J. T. DIEHL
Attorney for William Michael Bowman

10 CERTIFICATE OF DELIVERY

11 I hereby certify that a true and correct copy of the foregoing document was served this
12 21st day of Oct., 2008, by:


13 ☐ United States Mail
14 ☐ Hand Delivery
15 ☒ Facsimile

16 to:

17 Michelle R. Fulgham
18 Peter J. Smith IV
19 LUKINS & ANNIS, P.S.
20 250 Northwest Blvd, Suite 102
21 Coeur d'Alene, ID 83814-2971
22 Fax 208-664-4125

23 Todd M. Reed
24 POWELL & REED
25 P. O. Box 1005
26 Sandpoint, ID 83864
27 Fax 208-263-4438

28 Honorable John T. Mitchell
District Court Judge
Kootenai County Courthouse
P. O. Box 9000
Coeur d'Alene, ID 83816
Fax 208-446-1132



2008 OCT 23 P 2:38

FILED
CLERK DISTRICT COURT

24

J. T. DIEHL
Attorney at Law
106 W. Superior Street
Sandpoint, ID 83864
(208) 263-8529
ISB #3526

Attorney for Petitioner Bowman

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

TERESA R. BLANKENSHIP,

Petitioner,

vs.

WASHINGTON TRUST BANK,
as Trustee,

Respondent.

Case No. CV-2007-00572

AFFIDAVIT IN SUPPORT OF
MOTION TO INTERVENE

STATE OF IDAHO)
County of Bonner) ss.

WILLIAM MICHAEL BOWMAN being first duly sworn upon his oath, deposes and states:

1. The undersigned is one of four beneficiaries of a trust created by his mother, commonly known as the ALTHEA BOWMAN TRUST.

2. WASHINGTON TRUST BANK was previously serving as Trustee of the Trust.

3. There is currently pending before this Court a Petition filed by TERESA R. BLANKENSHIP against WASHINGTON TRUST BANK, seeking removal of Trustee, damages and injunctive relief.

4. Recently a mediation was held in Kootenai County at the offices of Attorney Peter Erbland for purposes of mediating the dispute involving WASHINGTON TRUST BANK. I appeared at the time scheduled for mediation and was advised by counsel for WASHINGTON TRUST BANK that I was not a party to the action and could not participate.

1 CERTIFICATE OF DELIVERY

2 I hereby certify that a true and correct copy of the foregoing document was served this
3 21st day of Oct., 2008, by:

4 ☐ United States Mail

5 ☐ Hand Delivery

6 ☒ Facsimile

7 to:

8 Mischelle R. Fulgham

9 Peter J. Smith IV

10 LUKINS & ANNIS, P.S.

250 Northwest Blvd, Suite 102

Coeur d'Alene, ID 83814-2971

Fax 208-664-4125

11 Todd M. Reed

12 POWELL & REED

13 P. O. Box 1005

Sandpoint, ID 83864

Fax 208-263-4438

14 Honorable John T. Mitchell

15 District Court Judge

16 Kootenai County Courthouse

P. O. Box 9000

17 Coeur d'Alene, ID 83816

Fax 208-446-1132

Daniel L. Andersen